A TAVERN OF THE PAST

With election posters on the walls, and the bar and drinking vessels (a glass case over the top of the bar) against a background of soil recently excavated at Pompeii

(By the courtesy of Signor Maiuri, Superintendent of Antiquities, National Museum of Naples, and Car. Dottore Matteo della Corte, Chief Inspector of the Excavations of Pompeii)

[front.

BRITISH TAVERNS

Their History and Laws

By

LORD ASKWITH

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BRITISH TAVERNS

CHAPTER I

OLD ENGLAND

"'THE CROSS KEYS' INN, near Caerleon, has failed to obtain a renewal of license and will be closed. The Bench appeared to consider that it should have more accommodation and that the proposed changes would give (in the words of the Act) 'increased facilities for drinking.' The licensee contended that the inn was at a corner of the roads and no extension of ground could be now obtained, that travellers did not wish to stay there, but that it was very convenient for motorists on their way to Caerleon or to South Wales and that no complaint of bad conduct had been made, but that the needs of the occasional crowd of persons desiring refreshment could only be met by extending the bar and throwing the old-fashioned living rooms at the back into one big room. Several well-known teetotallers, not usually seen on the Bench, sat as magistrates on this occasion. It may be suggested that licensing administration is for the purpose of affording, not refusing, adequate arrangements for the consumption of alcoholic beverages."—*Southern Echo*.

Thus, in a brief paragraph, might a newspaper quite recently have notified the close of a long history. Thus

too, in fancied dialogue, might that history, one among many, be briefly reviewed.

"So I hear the house has to be closed as an inn, and you have to move," said a young man to a girl sitting moodily in the tiny garden. "I have come over from Caerleon and as it is so hot I must bathe. Will you keep for me this metal disc I found at Caerleon in our digging this morning? I must hand it safely to the manager of the works. It looks like an identity plate and has letters. Maybe the II. LEG. AUG. means the Second Legion, 'Augusta,' which was quartered hereabouts for a long time in old Roman days."

The girl took the disc, and almost forgot she held it as she mused. "So they would have to go! She had lived in the little inn at the corner all her life. Why could not the house be altered as her father had asked? A few years ago it had been large enough, sleepy with its few customers. But now after all his hard work, her father must go because the motors had come, just as her grandfather had told her the coaches used to come. Why had the magistrates given such a decision, when her father had done all he could to cater for the reasonable needs of customers, even though with the number of them there was more drink consumed than in the years before the war?"

And as she mused in the drowsy heat of the afternoon, clasping the disc in her hand, her thoughts seemed to change and to lead her back to long forgotten years.

The scene seemed strangely familiar, but instead of the hard tarred roads there were narrow muddy tracks. A forest of trees surrounded a wattle hut and in it sat a girl very like herself with the same large brown eyes and red-

gold stubborn hair. In haste there entered two old men with long white beards, in white flowing robes and with wreaths on their heads. In haste they seized the jars standing on the ground and, though their speech was strange, she seemed to understand that they spoke of a coming enemy and that they must remove the sacred liquors, the strong mead made from wild honey and flavoured with ground ivy, cider produced from wild apples, and ale from barley,[1] which her father at their behest and direction had made for the feasts of the bards. Some they carried away, others they emptied on the ground, and scarcely had they gone when a tall man, in armoured breastplate and greaves, with a disc engraved with the letters II. LEG. AUG., stood in the doorway, and the girl fled to the wood in terror with the soldier following.

The scene again changed. The forest trees seemed fewer in number. The muddy tracks were wider and had given place to broad roads, running straight away in the distance. The wattled hut had gone, and in its place stood a brick and timber building, its floor laid out with tessellated pavement, a rude image of a dog with the label "Cave canem" occupying the doorway, and low stone shelves with large jars, their mouths covered with a black tarry substance, placed on either side of a higher barrier, which seemed as familiar as the bar so well known to her. Indeed it occupied almost the same place. The room was full of soldiers, and more kept pouring in: and all of them had discs with II. LEG. AUG. engraved upon them. They drank hastily of liquor poured from the large jars and talked of going back to the Rhine country, of the orders to leave Britain, of the sons and grandsons of the old

[1] Diodorus Siculus.

legionaries whom they would leave behind them. Bidding good-bye, they spoke of how they would miss the descendant of the old soldier who so many generations before had learned the secrets of the Druid's mead and had been ordered to supply the garrison at Caerleon, sometimes with that, and more often with the ale of malt and water which the legionaries from the Rhineland had demanded in this distant station. They recalled how he and his progeny had ever done so while the soldiers were at Caerleon, making the ale better and better with the aid of those who had come with knowledge from the south, but still using the ground ivy of the Druids for flavour and its preserving quality.

The soldiers seemed to melt away, the tiled house had gone, the roads were out of repair, the forest trees had increased in number, a low building of wood and hard earth stood at the meeting of the roads, but from it there came the pleasant smell of burning wood so native to our countryside, to attract the shepherds guiding their sheep slowly along the tracks and pausing for a draught of ale[1] which they called for as beer, as they told of the rumoured battles of King Alfred and the Danes away to the east in Mercia.

They passed, and a more solid structure seemed to appear where busy men were brewing liquor, again called ale, and at the same time their master was serving flagons to the retinue of a stately bishop on his way to Wales. "To the Lords of Gower I go," said the prelate, "and because on this weary journey you in this wild place have supplied me and mine with ale and provender when I was at a loss for aid, this house shall be given the Sign of the

[1] Alfric's *Colloquy*.

Cross Keys of our Holy Father, to place on your ale-stake above the ale bench."

And the host replied, " I take your sign, most reverend Sir, though it marks but this small dwelling where the people stop on their course along the roads. I hold it from the lord who has all the land beyond, and for brewing for my lord and his men I stay here as my father and grandfather did."

And so the prelate passed on and other figures of men in armour, of men in capes and flat hats, of men in trunk hose, passed too, in long succession, staying on their way for refreshment where the " Cross Keys," in varied forms of carved wood or painted sign, ever denoted the name which the prelate had given.

A murmur of rumours and talk arose amongst them as they passed, some contingents condemning the recent notions of brewing ale with the new weed called a hop, others discussing the respective merits of beer without hops, and of hopped ale. The controversy of these groups in the long procession had not ceased when rumours took more form and it was told how the abbeys and the monasteries had gone, and no man now could get sustenance in sup or drink from the priests. Then came the talk that in their place too many were coming forward to brew and to sell. In every lord's and squire's house, as of yore, the lady of the house was brewing for her own household requirements and for the people on the estate. The trouble was not with these, nor with the rural inns, but with the towns, through the growing press of people in the towns and their demand for strong drink. The priests, drinkers though many of them were, had had much of the control, but their power had gone. What was to take their place ?

Was it not true that the running of ale houses and inns must come in more and more as a trading business?

The talk continued that the manors in the country and the Guilds in the towns appointed their ale conners and ale tasters and strove hard in rural and urban districts to ensure good ale, true measure, and pure drink, and were succeeding in spite of the shortcomings of some of the ale wives, but that ale houses had to receive licenses at Sessions of the peace or from two justices, and that the Great Queen Elizabeth and other authorities were in a hurry. The Queen issued proclamations and they had small effect. Her policy of admonition had ended at her death. The new King was intent on legislation, and, wherever he could, would bring the traders under central authority, particularly in the towns. A Bill was being debated in Parliament. Its terms were not discussed on the countryside, because life went on with its usual calm, and none knew whether they were threatened. And yet——

The disc was taken gently from her hand by the young man back from his bathe. The setting sun seemed to show a fiery sign in the sky. The girl slowly opened her eyes and said, "I have been dreaming, but the spell is broken. I saw the whole history of the inn pass before me from days before the Romans came: and how it changed with the times; through the Roman soldiers, the Saxon kings, the Norman lords, the abbeys and the monasteries, and Elizabethan squires.

"It met with many changes, and in all it has been there. It catered sometimes for crowds of people, and at other times had but scant custom. In all those changes it moved with the times and served the people with what they needed and liked. Why is it to go now? And then

I heard of a new law that a Scottish King wanted to have passed by Parliament, and men were talking of it when you took back the disc, and I woke to see fire in the sky."

" Ah ! " said the young man, " that is a sign of what the new law meant. The law has hindered your forbears and you in one way or another ever since the Act of King James the First, three hundred years ago, and now an unfair law or the interpretation of a law is to bring your history to an end. It is a long, long story, but I will try to sketch it briefly."

" In the old days," he said, " the old Kings knew that their people wanted ale. They desired it on campaigns, in harvesting, on feast days and at marriages. There was no tea or coffee. Wine was dear and scarce, though much came from abroad for the richer people and the merchants. Ale was the drink of the country and had been so for hundreds and hundreds of years. Nobody who could get ale was satisfied with water. Men and women drank ale at break of day, at midday and at night. The old Kings wished their people to have good ale and good supplies at low prices. That was why the authorities were so severe on the shortcomings of all wives or ' brewsters ' all over the country, and punished them with heavy fines, or the cucking stool or tumbril. They could be dipped in a pond, if they made harmful compounds or gave short measure. In Scotland, too, the brewster was punished severely for making ' evel ail,' evil ale. That was why in Henry the Third's time ' the Assize of Bread and Ale ' fixed prices and in every township juries of six lawful men were appointed to enforce the regulations and test the pots and measures used in the ale-houses, and ensure the official seal. Aleconners, men who could con or judge the ale,

in all manors and in borough towns and corporations, tried the ales and tested them for requisite strength and quality. Richard Whittington, Mayor of London, settled the aleconner's oath, which began, 'You shall swear that you know of no brewer, or brewster or cook or pieman in your ward, who sells the gallon of best ale for more than one penny half-penny, or the gallon of second for more than one half-penny, or otherwise than by measure sealed and full of clear ale.'

"At a later date came, in London, the stir about hops. The Common Council of the City of London petitioned Parliament to prohibit them 'in regard that they would spoyl the taste of drinks and endanger the people.' Hops, however, came to stay, though 'The Master and Keepers or Warders and Commonalty of the Mystery or Art of Brewers of the City of London' were a great craft-guild at first confined to brewers of unhopped ale. It must be remembered that at the end of the fifteenth century the chief commercial crop of many counties was barley, grown, not for bread, though this was eaten in some—probably cider—districts, but for malt, of which such large quantities were required that more was imported from Flanders and of a better quality than the home-made. An inferior kind of malt was also made of drage, or mixed barley and oats. Immigrating Flemish in 1524 who settled in Kent gave impetus to beer made with hops, though Henry VIII would have none put into the Royal ale, and others contended that ale was the natural drink of an Englishman, while beer made of malt, hops and water was the natural drink of a Dutchman.

"The Tudor sovereigns indeed took much trouble about ale. Under Henry VII in 1495, the first licensing statute

was passed, empowering any two Justices of the Peace 'to reject and put away common ale selling in towns and places where they should think convenient, and to take sureties of keepers of ale houses in their good behaving.' Henry VIII zealously regulated the quality and price of ale, paying no attention to the rising prices of barley or the depreciation of the coinage. The Court and the people drank ale. Witness the allowance given to Lady Lucy, a maid of honour. 'Breakfast—a chine of beef, a loaf, a gallon of ale. Luncheon—bread and a gallon of ale. Dinner—a piece of boiled beef, a slice of roast meat, a gallon of ale. Supper—porridge, mutton, a loaf and a gallon of ale.' So too in the Household Book of Henry Algernon Percy, 5th Earl of Northumberland, at his castles of Wressil and Leckonfield, in Yorkshire, in 1512: 'Braikfastis for Flesch days' are to be, 'For my lorde and my lady, First, a loof of brede in trenchers, two manchetis, one quart of bere, a quart of wine, half a chyne of mutton, or ells a chine of beef boiled. Braikfastis for the nurey, for my lady Margaret, and Mr. Ingram Percy, item, a manchet, one quart of bere, and three mutton bonys boiled. Braikfaste for my lady's gentlewoman, item, a loif of houshold brede, a pottell of beire, and three muton bonys boiled, or ells a pece of beif boiled.'

In the 5th year of Edward VI an Act, important in character, because in it the legislature recognised the 'Hurts and troubles' caused by 'disorders as are had and used in common ale-houses and other houses called tippling houses,' was passed. It enacted that justices of the peace could abolish ale-houses at their discretion, and that no tippling house could be opened without a license.

These houses had to give surety for the maintenance of good order and rule.

"It was a constant complaint that materials were too costly, and the prices fixed too low, but yet the City of London made order that if any brewers 'of frowarde and perverse myndes, shall at any time sodenly forbere and absteyne from bruynge, whereby the King's subjects should bee destitute or onprovided of Drynke," their brewhouses should be taken by the City, which shall allow others to brew there and provide them materials in case 'their lak greynes to brew with.' They were regarded as 'withdrawers of victual' from the City, and at the same time the growth of barley was desirable for the country side. So in spite of rising prices of material, prices fixed for 60 years, as the Brewers' Company fruitlessly complained in 1591 to Queen Elizabeth, and the competition of brandy and spirits which Camden says were introduced by English troops from the Lower Countries, the brewers had to make the best of it. Her Majesty's subjects required ale, and they should have it, plenty of it, cheap, of good measure, tested, with the licensees of a lawful trade regulated under the protection of the justices, and ale was only to be exported under license and payment to the Crown. Records show that Queen Elizabeth, like everyone else, generally drank ale for breakfast, and she made money by exercising her prerogative of purveyance and exporting quantities of beer to the Continent. The interest she took in the subject may have been part cause of the constant interference with the brewers and the irksome regulations of every kind during her reign, but they did not stop drinking and it may be noticed that much stronger ale, in cask and bottle for export and home use, came into vogue and made

English ale famous throughout Europe, with consequent improved status and prosperity for brewers.

"'Men of goode Ranke and place, and much command,
Who have (by sodden water) purchast land.'[1]

"And after James and Charles came the Commonwealth, and, from that to this, variable legislation has been the continual curse of the business of the brewers and the retailers of drink and by lack of consistency has been harmful to the public generally. It might not have been unreasonable if measures for efficient supervision and control had been alone passed by the legislature, but legislation and principles went in spasms. So it has been ever since, and you are of those who suffer from this system."

This imaginary colloquy serves to give a sketch of history to the 17th century when legislation began in earnest. That history seems to indicate that from time immemorial the English were accustomed to fermented liquor and cultivated barley for that purpose. It was meat and drink to them, and then, partly with a view to curtail heavy drinking and partly to protect the interests of the public, Government stepped in to make regulations.

If the regulations were too strict, they were evaded. The people objected to be made moral or have their habits ordered by outside force. As the population increased and with the cessation of general hospitality in the country mansions and the closing of the monasteries, inns and ale-houses increased and the licensing system was introduced under the Tudors.

With the Stuart kings a new incentive to interference arose when it became apparent that a very lucrative source

[1] *Bickerdyke*, p. 147, quoting the Water Poet.

of revenue to the crown could be obtained through drink. In 1643 the Parliament established the excise, and the Royalists from Oxford followed suit, both parties stating that it should be continued no longer than to the end of the war, and then be abolished. Yet it was continued throughout the Commonwealth period and afterwards made hereditary to the Crown, up to 1757.

As far back as King Edgar, who invented drinking to "pins" or pegs, Sovereigns from time to time made regulations relating to drink. In the main the regulations point to attempts to prevent the drink being too dear and also to prevent adulteration or short measures; and the necessities of the Revenue, blended with the rise and fall of the power of competing interests, have been over and over again vital causes of fluctuating policy in regard to drink. Thus in 1650 the tax on a barrel of strong beer was 2*s.* 6*d.* Importation of spirits was forbidden, but on payment of small duties *any* person was permitted to distil and retail *spirits* made from *English* grown corn. This form of protection to agriculture and the tax on beer at once led to substitution of spirits for ale and beer. When in 1692 the tax on beer was increased to nearly 5*s.* per barrel, the reduction fell very remarkably. In 1690 the licensed London brewers produced 2,088,000 barrels, and in 1693, 1,525,000. Ten years of further statutory encouragement of the distilling industry led to a huge increase in the manufacture and consumption of spirits, not brandy, but gin. In 1684, 527,000 gallons of spirits were produced; in 1700, 2,000,000; in 1735, 5,394,000, and in 1742, 7,160,000. Further, the French wars and the Methuen Treaty of Queen Anne's reign encouraged heavy and strong Portuguese wines as against the French wines, and

wines, with the advent of the corkscrew, were drunk from the bottle instead of the barrel.

In 1725 a Committee of Middlesex magistrates stated that in London, excluding the City and Southwark, there were 6,187 houses and shops for the sale of "geneva or other strong waters" by retail, the population numbering about 700,000. A later report given in 1739 gives the number as 8,659, excluding 5,975 ale-houses. With this increase Parliament became alarmed, and statutes began to be passed to endeavour to stop a result which Parliament had itself produced. Taxes were put on, only to be evaded, and finally the Gin Act of 1736 (9 Geo. II. Cap. 23) was passed, with taxes intended to restrict retail traffic and make people moral by Act of Parliament. The preamble recited, "The drinking of spirituous liquors or strong waters is become very common, especially among the people of lower or inferior rank, the constant and excessive use whereof tends greatly to the destruction of their health, rendering them unfit for useful labour and business, debauching their morals, and inciting them to perpetrate all manner of vices, and the ill consequences of such liquors are not confined to the present generation but extend to future ages, and tend to the devastation of this Kingdom."

With a view to supporting this preamble, Parliament attempted to tax out the retail trade. After September 29th, 1736, all persons selling less than two gallons of spirits at a time were required to take out a license at the cost of £50; and a duty of 20/- a gallon for every gallon sold in less quantity, in addition to duties payable by distillers, was to be paid by retailers. A penalty of £100 was payable by any person selling spirits without a license,

and licenses were to be confined to keepers of victualling houses, inns, etc., who carried on no other trade. The Act proved to be disastrous. Soberness, morality and virtue did not result, but on the contrary the trouble was enhanced by a vast increase in illicit trade. Every conceivable kind of evasion was practised and the consumption of gin in England and Wales nearly doubled in a few years.

In 1743 the Act had to be repealed and Parliament swung to the other extreme, while still desirous of raising revenue. Anyone was permitted to get a license for a pound in place of the evaded fifty pounds, and the duty of 20/- on each gallon was abolished.

Another attempt was made in 1751 with an Act preventing distillers from selling either retail or to unlicensed publicans and laying down that debts for drink could not be recovered at law, and in 1753 justices were given more powers of control and annual licenses received statutory authority, while licensing and management were subjected to further regulations. Lecky, in his well-known history, speaks of " a real and considerable effect " from these later Acts and speaks of them as " far more efficacious " than the stringent provisions of the Gin Act of 1736. Conditions became better, and malt liquors again came forward. In 1733 the total consumption in England and Wales for low wines (weak spirits) and spirits was returned as 11,282,890 gallons ; in 1742 it had risen to 19,897,300 gallons ; from 1760 to 1782 it fell to an average of about 4,000,000. The general deduction from this dangerous period is probably as true now as it proved then to be, that reasonable restrictions are far better for the people at large and the trade itself than impossible restrictions on the one hand or almost absolute laxity on the other. The problem of the

last two hundred years after this disastrous lesson has been to find the golden mean.

The anxiety of governments to get money from taxes was a potent, but by no means the only factor which determined the variation in policy. From the time of James I, right through the whole period to 1830, it is clear that there were contending forces and interests governing the action of different classes in the community and causing great inconsistency in legislation. There were the people desiring drink, but when cheap spirits were introduced they turned from ale to spirits, particularly in the towns. There were the producers, with the rival interests of wine and ale, and, particularly after 1690, of spirits and ale, and after 1704 of spirits, ale and wine, not restricted by the regulations of an age which required so much drink to be made from so much malt, but objecting to high taxation and evading it. There were the sellers, especially the retailers, evading too stringent or expensive licensing laws and not averse, in spite of the statutory heavy penalties, to adulteration or watering all classes of drink if and when more profit could be thereby made, but knowing well that bad liquor did not add to the popularity of their houses. There were the agricultural interests, which had a law passed greatly in their favour, by which the trade of distilling was thrown open to anyone and importation of spirits forbidden. There were also, which is too often forgotten, a vast majority of quite temperate people, who knew how to be moderate and governed their lives accordingly.

As the bad results of excessive drinking from time to time became apparent or recrudesced, for that and for other reasons legislation was attempted, inconsistent, on no fixed or understood principles.

Then came the period of the Gin Epidemic and the feverish legislation to which allusion has been made, and the lines on which improvement since that period has been effected and is now being effected with the best success may be partly gathered from a comparison A Fellow of the Royal Society, William Maitland, in 1739 published a valuable "History of London." He was a scientific, caretaking contemporary, and he says (page 531) from actual survey that there were, in London, 95,968 houses, of which 15,288 sold drink for consumption on the premises, to provide for a population of 725,903, or one pothouse to every six houses and to every 47 persons. Dr. Shadwell, in his book on "Drink, Temperance and Legislation," notes from the census of 1896 that the proportion in 1896 was one to every 77 houses and to every 585 persons, or if all licenses, both for "on" and "off" consumption, be included, one for 424 persons. Of the above numbers referred to by Maitland, 8,659 were "brandy shops," 5,975 were ale-houses, and only 654 inns or taverns. The "brandy shops" or spirit bars were crowded together eastward of the City and on the Surrey side of the river. In the City and the West-end there were comparatively few. Public Houses were about 12 times more numerous in proportion to the population than in 1896. As to consumption the quantity consumed in London in a year was: Beer, 70,955,604 gallons; spirits, 11,205,627 gallons; wine, 30,040 tuns—an annual consumption per head of 90 gallons of beer and 14 gallons of spirits. In 1896 the quantities per head were about 30 gallons of beer and one gallon of spirits.

It would seem that the reduction or improvement of the worst pot-houses and spirit bars, which led to the making

and the adulteration of liquor by a large number of producers and which in Maitland's time could not be controlled by the big houses whose day had not yet come, has at least been one factor in leading to the curtailment of heavy drinking by so many persons. That reduction, gradually going on with the passing of the years, has enabled the big houses themselves to hasten the process, to control the trade, to lessen that excessive drinking which is of no advantage to them in comparison with the moderate and more diffused demand for good liquor, and to assist the public to become more temperate. Although in the 18th century big houses had commenced to come into being, they had no well defined co-operation or aim. They could not control the multitude of private producers. Difficulties of transport prevented their goods from being disseminated in wide districts or over the whole country. They were building up a big business which now employs hundreds of thousands of people, is backed by millions of capital, exports vast quantities of produce to the markets of the world, and is one of the principal sources of the revenue, but it was a business in the making, and it is not generally realized that it is a business which itself has done much to change and improve the condition of things which so frightened Parliament in the middle of the 18th century.

CHAPTER II

Big Houses and the Industrial Age

Although many Acts of Parliament were passed in the years between 1753 and 1828, when the " Ale House Act " codified or repealed many existing Statutes and became the recognized basis for the subsequent law of the Kingdom, historical importance shifts for the time being from legislation to industrial change and its consequential results upon the trade. The nation was continually at war, and did not greatly interfere, except by taxes, with the growth and improvement of the trade within itself. Importation was more difficult and the agricultural interest appeased by the increased home sale of its products, particularly to large buyers. Export, whenever practicable, was fostered. Transport was improving, and was soon to improve rapidly. All the factors were in favour of more centralization.

As to the rise of the great houses it is true that from the beginning of the 18th century this had commenced, but it was not till the latter half of that century that some of the present great houses really laid the foundations of their position. In 1760 Whitbreads headed the list of taxpayers with 63,408 barrels of beer. In 1786 the amount had increased to 150,280 barrels. How ludicrously small does this figure appear in comparison with the production of the present day. On July 22nd, 1927, Mr. Churchill stated in the House of Commons that " The bulk quantity of beer

produced by brewers for sale during the year ended 31st March, 1927, was in England, 23,418,640 bulk barrels; in Scotland, 1,673,576; and in Northern Ireland, 8,245," and on July 18th, 1927, Mr. McNeill replied to a question that the figures of spirits were in the same year: "England, 10,614,350 proof gallons; Scotland, 16,532,282; and Northern Ireland, 176,800, making a total of 21,323,441." In the previous year the total was 37,758,992 proof gallons. In September, 1927, the Finance Accounts for 1925-26 were issued and showed receipts in the income from Customs and Excise, £3,752,759 from wines; £41,989,705 from spirits; and £76,320,020 from beer.

In the last half of the 18th century the names occur which afterwards gave titles to the limited liability companies of the present day. In 1791 nine chief brewers were said to be Bass, Clay, Evans, Leeson, Musgrave, Sherratt, Worthington and the two Wilsons, afterwards Allsopp. In addition to London, they centred round places like Burton, where special conditions were favourable to brewing. The tradition of the forms of brewing suitable to particular localities were becoming customary and being gradually improved. The best localities had probably been ascertained, though it may be doubtful if scientific research had actually been invoked to any large extent to aid in brewing and distilling.

One of the important factors in favour of big houses was the increase of the export trade, for which a long history indicated the path.

English ale had been exported from very early times. In the twelfth century Thomas à Becket took two waggons laden with beer in iron bound casks as a present to the French, "who admire that kind of drink." In Shake-

speare's "Henry the Fifth," Mountjoy wonders how the English can be so sturdy on the drinking of ale. Export of beer in the time of Edward the Sixth was regulated by an Act of 1543, which provided that no larger vessel than a barrel was to be used for export purposes, under fine of 6*s.* 8*d.*, and that every exporter should give security for importing so much "clapboard" as would be an equivalent for the wood of the barrels he took out of the country.

Queen Elizabeth followed up the practice by licenses and duties, out of which the principle of making money for the Revenue of the Crown continuously persisted. In the 18th century the export trade to Russia was large, Peter the Great and the Empress Catherine particularly favoured English ale. The Burton brewery exported as much beer abroad as they sold in England But as faster ships and extended dominions made the trade more profitable very considerable extension occurred, an extension which continued with increasing speed throughout the 19th century, particularly after the Exhibition of 1851 and the resulting demand for bottled beer in India.

Against such a factor, there were, however, opposing factors. Home brewing had been customary throughout the land, and it died hard. In 1821 William Cobbett could write that "to show Englishmen forty years ago that it was good for them to brew beer in their houses would have been as impertinent as gravely to insist that they ought to endeavour not to lose their breath, for in those times to have a *house* and not to brew was a rare thing indeed. Mr. Ellman, an old man, and a large farmer in Sussex, has recently given in evidence before a Committee of the House of Commons, this fact, that 40 years ago there was not a labourer in his

parish that did not brew his own beer, and that now there is not one that does it, except by chance the malt be given him."

Writing in 1824 in a practical treatise of instructions for "The Private Brewery" by Bonington Moubray, the author says that "Throughout the country, and among the classes of property, from the highest to the lowest degree, the custom of private brewing has been immemorial and nearly universal. It is a favourite topic of the present day, to warrant something similar of the country labourers of former and better times. So far as my recollection extends, I have never known such a custom to be general, but prevailing only, in any considerable degree, in the rich counties, and even in those confined to the best paid and most provident labourers. . . . In the poor counties, and where wages were low, very little ability subsisted among the labourers, to supply themselves with home-brewed beer, three score years ago. Within my knowledge, it was a thing constantly attempted, and periodically relinquished, from want of funds. . . . In the towns there is neither sufficient room, nor leisure, nor necessity, for the practice. Away then, go mash tun and coolers, casks and all, and the poor copper is left in pristine solitude! . . . As to London, among the obstacles to private brewing is the universal predilection, both of the natives, and foreigners who visit this country, for London *Porter*, which no private family, so far as I have heard, has succeeded in brewing to perfection."

Other opposing factors were the keen competition between the different houses and the belief of every brewer in his own practice. As to the first, it is clear that the principle of amalgamation and assistance was not realized,

except so far as a big house commenced to obtain and add to a number of "tied houses," partly to overcome the resistance and competition of small men, partly to have distributing agents for their own products to the exclusion of their competitors. It may indeed be said that the contrary was the case, because the method of dealing with the increasing trade may be exemplified by the history of the brewing houses which split off from Burton or similar places and established themselves in other districts.

As to the second belief, it is a factor not unconnected with competition and special recipes, and introduces the subject of adulteration, which formerly was so important. Its actual failure as a policy, from the point of view of both brewer and consumer, has gradually led the producer to find in science his most potent aid to success, and the fallacy of antagonism between science and rule of thumb methods has gradually vanished.

In 1835 Mr. William Black in "A Practical Treatise on Brewing and on Storage of Beer," says: "An obstacle to improvement exists in the fact that almost every brewer, in the course of a long practice, fancies that he has discovered some nostrum by which he can make his beer better than his neighbours," and suggests that "these nostrums, though often worse than useless to the possessors, might, if freely communicated to more scientific inquirers, have some tendency to throw light upon the theory and principles of brewing; but they are uniformly kept secret, and this want of the combination of science with practise throws almost insurmountable difficulties in the way of investigation. Had it been otherwise there is little doubt that, long ere now, the art of brewing would have been much better understood. . . . Few scientific gentlemen

have turned their attention to the subject, while those who have done so, have not had it in their power to carry their researches to any useful result, on account of their want of practical knowledge. Some of them have applied for information to professional brewers, who, doubtless from feelings of jealousy, have generally rather misled than instructed those who desired their assistance."

It is true that the days had long passed when a Saxon leech book could instruct that " If the ale be spoilt, take lupins, lay them on the four quarters of the dwelling and over the door and under the threshold and under the ale-vat, put the wort into the ale with *holy water.*" Yet in 1793 a Scotch brewer had enjoined, " I throw a little dry malt which is left on purpose, on the top of the mash, with a handful of salt, to *keep the witches* from it, and then cover it up."

Ivory shavings, suspended iris roots, calcined oyster shells mixed with chalk, wheat and bean flour mixed with a little ginger and treacle, and to prevent injury from thunder, a piece of iron on each cask or an iron pad over the bunghole, had been solemnly enjoined in the past as secrets which would lead to good ale, differentiate one brewer's skill from that of another, and " please customers."

Experiments were made, when duties were high and hops scarce, with such substances as pine and willow bark, quassia, cascarilla bark, gentian, colocynth, walnut leaf, broom, wormwood, various bitter herbs, extract of aloes, cocculus indicus berries, capsicum, and later, picric acid, or other substitutes. In fact the use of some of these substances far exceeded experiment.

The writer of " The Private Brewery," of 1824, wrote : " It has seldom been my fortune, in a great number of

years, to taste unadulterated purchased ale, whether brewed in the Metropolis, or in the brewing districts of the country. In these ales, at present the chief articles of adulteration, which my well-practised palate can discover, are seeds, sugar, and salt, perhaps bay salt. Cocculus Indicus, (Indian berry), a most intoxicating and deleterious drug, the flavour of which I well know, was formerly much in use; and if that be not the case at present, it is difficult to conceive why such large quantities of that drug should be annually imported, since its use in medicine is almost unknown. The brewers, however, find a sufficient apology in the pressure of taxation, and the vitiated taste of the public." And he expressed some surprise that Mr. Child, a great brewer, should "enumerate that baneful drug, Cocculus Indicus, which he has even given in his receipt for ale. It is well he omitted *opium*, which has often poisoned both porter and ale."

Ten years later, in 1835, Mr. Black gives interesting evidence of the limitations of knowledge at that time in the art of brewing, though in the suggestions he makes he anticipates sometimes the cure without knowing the reasons why bad brewing might occur.

Thus he mentioned that "it has long been the opinion of many eminent chemists, both English and French, that electricity is a powerful agent in fermentation, as well as in preserving or destroying. The late Sir H. Davy was decidedly of that opinion," but "I fear we shall not be able to come to any certain conclusion with regard to the action of electricity on beer, until philosophers are better agreed as to the nature of that extraordinary fluid. Of this, however, we are pretty sure—that the preservation or destruction of beer depends upon electricity; and that

the most certain mode of preservation is to insulate, as much as possible, both the squares and all other utensils or vessels connected with the brewing or storing of beer. I am aware that I have broached a somewhat new doctrine, with regard to the operative department of brewing, but referring, not only to my own practice, but to the authority of Sir H. Davy and others, I hope I shall be acquitted of presumption when I say that it deserves attention."

Many years had to pass before Pasteur made his famous discoveries on fermentation. Mr. Black could only remark, "Fermentation is undoubtedly a chemical process, by which, with the assistance of an artificial ferment, the component parts of worts are changed and more intimately combined and thus converted into beer. I am of opinion that on a good or bad fermentation, depends all the flavour, as also all the preservative qualities of the beer. I shall therefore endeavour to give all the information on the subject I have been able to gather in the course of nearly forty years' experience in the brewery, as I have not seen any regular treatise on this most material part of the process in any former publication."

The author then discusses at length the practical results of fermentation which he has noticed, closing with the excellent maxims that want of success in brewing generally proceeds from one or other of the following causes :—

"First, from want of attention to cleanliness.
Second, from not having good malt and hops to brew with.
Third, from using bad liquor or water.
Fourth, from being exposed to any undue electrical influence.
Fifth, from using bad yeast."

As to drugs, the author suggests that the brewer should

have a sound knowledge of chemistry, as a chemical remedy may be necessary when the brewing is "sickly," and inveighs against travellers traversing the country in all directions for the purpose of selling drugs to brewers, "and that, in such quantities, as to make something like an apothecary's shop of a man's stomach. One drug is for the purpose of making the beer keep, a very desirable object; another for giving flavour; another to produce vinosity, etc., etc.; and the ignorant brewer is always induced to try them by being told by these itinerant gentlemen, that such and such eminent brewers always use them and cannot do without them; although, perhaps, those eminent brewers have never seen or heard of such ingredients."

Mr. Richardson, of Hull, although the author differs from him in some particulars on the method of fermentation and obtaining a change of yeast, is highly praised as having "had the honour and merit of first causing the art of brewing to be regarded as a science in this country, by the invention of the saccharometer, and no man could possibly carry his researches farther than he did, as to the most scientific mode of making the extracts." "The trade in general is very much indebted to him. Before his time rude instruments had been constructed by different brewers for the purpose of, in some measure, ascertaining the value of the malt. Equal quantities, for instance, of wort and water were weighed against each other, but this mode was found to be troublesome, and was only practised by very few. Since his time various other instruments have been introduced for the same purpose; but for real utility, I do not think that his instrument has been excelled by any." In fact, the saccharometer seems to have been

first introduced shortly before that date, because in 1824 even a thermometer has to be suggested as a suitable addition for the use of "those brewers who desire to be scientifically accurate in taking the heat of their liquor."

Mr. Black's most interesting allusion to science is, however, to be found in the high praise of French chemists for researches on the nature and properties of malt, and "the mode of using malt-meal, or bruised malt, which in a manner not yet known, by the substance containing diastase, has the power of lacerating the cuticles of starch granules, and is the substance by the action of which saccharification takes place in the mash-tun . . . This discovery of the French chemists may also lead to other very important results in the formation of extracts, but as it has only been pointed out to me by a friend since writing the foregoing pages, we are neither of us altogether prepared to give the results of any practical observations we have as yet made upon the subject. I know, however. that my friend, Mr. Robert Stein had, long ago, ideas as to the formation of extracts which this new discovery appears completely to confirm. I have heard that in Bavaria they have a mode of making malt in six days, which they dry in seven hours ; and that the quality of the malt is, both in colour and flavour, quite as good as any made in England. The friend, however, who gave me this information is not as yet altogether in possession of their process ; but most likely," adds our author, with ill-concealed bitterness, "our present Excise laws would prevent its adoption, even were it proved to be beneficial."

Remarks such as these show how far distant was the knowledge which Pasteur was to give and his proof that the phenomena of alcoholic fermentation and putrefaction

were definitely connected with the presence of micro-organisms, a principle which Lister was led to associate with the inflammation of open wounds, thence evolving a treatment which has created a revolution in surgery, Their importance lies in the indication that, almost without realizing it, the big houses were obliged to turn to science. Science in time showed the evil of adulteration and nostrums, until a big brewer could exclaim that it was not in the produce sent out from their breweries, " a really wholesome and nourishing as well as agreeable drink," " the only Safe drink the world over," that danger lay, but in the wiles and practices of small distributors. The big houses did a great service by the achievement of a high standard, even if the causes may have not been completely or scientifically understood, and the big houses alone could effectively employ the discoveries of science on a commercial scale, and effect more concentrated organization, with increase of speed and facility of transport and distribution.

It has had to be recognized that the limits of temperature, humidity, and ventilation within which success can be obtained were narrowed by engineering and biological considerations, and that these problems had to be solved if waste, and disastrous waste, was to be reduced or eliminated.

" To-day the brewer relies for assistance upon the laboratory, which is an essential unit of every full-equipped brewer. There the purity of every material is determined and its commercial value appraised ; the yeasts are microscopically examined, and the measure of stability and brilliancy of the beer is ascertained, with a view to standardising, as far as possible, the general produce."

" To-day beer is the purest of beverages, the only one

which, in the process of manufacture, is subjected to the sterilising influence of an extended period of boiling

"Customs and Excise officials not only survey every brewing process, but by a regular system of analysis ensure the purity of every ingredient employed in brewing. Samples of every brewing of finished beers must be retained in the brewery for analysis, if required; and, in addition, thousands of samples are obtained from retail licensed premises. The annual report of the Government Laboratory shows that in no case is adulteration found."

This allusion would refer to the report of 1926–27, which states that all samples passed the test. In the three previous reports of the Government chemist, out of more than 5,000 samples, there had been a small percentage of cases of adulteration by dilution and in a few cases by traces of arsenic, and in the Ministry of Health Report on the Sale of Foods and Drugs Act, about 2.3 of the samples of beer were stated to be "adulterated or not up to standard." These percentages are very small and diminishing in quantity.

Brewing had been an empirical craft, but by process of demand and evolution it was bound to become an art and a science. In the eighteenth century, the population being comparatively small and means of transport difficult, each large district, and indeed, almost any large house, brewed and distilled for itself, but now the situation had changed. Railways and canals were beginning to connect all parts of the country, and transport became more easy both for persons and goods. The towns were increasing in size by leaps and bounds, and demanded large supplies of liquor in particular centres, which could not be adequately met by home-made liquors. There had to be

carried out the principle of the old Yorkshire proverb, "The bigger the brewing, the better the browst." The export trade was going to all parts of the world. The big brewers were getting more and more trade, and could not afford to lose quantity of produce by mistakes due to ignorance or carelessness, or hazard reputation by lack of good quality. Though the customs of the past die hard, it was found that with the increase of trade the need of more certain production of good material required the aid of science and of large factories. At the same time, other industries required men and women who could do consecutive work without continual hindrance by indulgence in drinking. As industry advanced it became more and more clear that trade in liquors must alter its methods and adapt itself to the new order of things. Moderation was necessary for those men who intended to lead in industry, and, at the same time, the tone of the age in the more leisured classes was rapidly changing. The idea of moderation, aided by the temperance movements, evolved as a necessity of the age and affected the minds of men. The movement towards moderation spread down and out.

It is not to be supposed that a new movement was estimated fully or even guessed at by the majority of people, but looking at it from a later date, it seems plain that insensibly the requirements of industry and the alteration of the whole outlook of the country, gradually tending towards the foundation of a great Empire, caused improvement in every industry, and, in particular, the liquor industries, which met a requirement sought by men and customary in the habits of the people.

The movement, viewed from the standpoint of the present time, may appear to have been slow, but if decade

by decade be taken, it was in reality going forward with considerable speed, almost without definite understanding by those who were actually engaged in it. One of the reasons of this was undoubtedly a very ordinary reason. Men in the energetic business of life are not apt to realize the changes which they themselves are introducing or which proceed around them.

The real history of the liquor industries from 1827 to 1927 was a history of vast improvement in the course of a hundred years, rendered necessary by the enormous changes arising in the country itself and the development of trades throughout the world. The increase of population, congestion of population in towns, the necessities of manufacture, as well as the habits of the people, which are continuously affected by industrial considerations, required adaptation by the liquor industries, and in some measure received it. Those industries were hampered by legislators, reformers, and the industries themselves, all these factors groping, more or less blindly, to find out the best means of preventing abuses. Each of them had, in a sense, different main objects. Legislators were concerned with the Revenue and high taxation, as well as with the condition of the people. Reformers had different theories ranging from total prohibition to regulations of every kind, petty or otherwise. The trade gradually recognized that abuse of drink was its worst enemy.

CHAPTER III

Committees and Teetotalers
1830 to 1850

As early as 1818 a Parliamentary Committee had stated in favour of the big houses that the " Committee were fully of opinion that so far from the larger brewers having, as was supposed, done a public injury by reason of what was called the monopoly of their trade, they had, on the contrary, done a public benefit by the superior article which it was ascertained they were enabled to furnish upon the better arrangement which their large and extensive capitals necessarily commanded."

At the close of the great wars, there was, however, a rising movement in favour of social legislation of all kinds. It is illustrated by the swirl of social and labour laws, never adequately described, which were passed or demanded in the reign of George the Fourth, and the question of liquor did not escape the swirl.

It was found on examination that so many Acts and interests centred round the trade that no important changes could be effected by legislation without a base from which to work. As a result in 1828 the " Ale House Act " was passed, codifying or repealing the vast mass of existing Statutes. This Act became the recognized basis for the subsequent licensing law of the Kingdom, a dividing line between the past and the present. The rest of this book

is chiefly concerned with some of the suggestions which have been made upon the question of liquor trade and liquor laws during the last hundred years.

Following upon the Act the first of scores of Committees upon the subject was appointed, and it may be noted that the Committees themselves were moved to attempts to rouse public interest. Thus in 1834 one of the concluding suggestions of the Committee of that year was for the enlistment of public opinion by immediate circulation of an abstract of evidence "as was done with the Poor Law Report."

This interest in liquor and the greater notoriety received by the use of inquiry have made the question of liquor so contentious a subject in Parliament and the country for the last hundred years, and these ideas have tended to enlist orators, enthusiasts, authors and societies, from prohibitionists to drinking diehards, in a fray in which the trade itself has ever had to be on the defensive.

The first decision by Parliament after the consolidating Act of 1828 was a setback for the big houses, possibly in part due to divided counsels, in part to the belief that a possible reduced taxation of beer would mitigate, as far as the big houses were concerned, the effect likely to be produced by opening the retail trade. Faith in beer in preference to spirits may have affected the Government, but a far more powerful incentive must have been in every constituency the demands of the small men, and the desire, at that time of political unrest, to get votes.

The Act of 1830, known as the Duke of Wellington's Beer House Act "to permit the general sale of beer and cider by retail in England," recited in the preamble that it was deemed expedient for the better supplying of the

public with beer in England to give greater facilities for the sale thereof than are at present afforded by licenses to keepers of inns, ale houses, and victualling houses.

Though its expressed object was to discourage spirit drinking by throwing open the beer trade to anybody who chose to start a pothouse, the immediate effect was to increase disorderly little shops. Any householder assessed to the poor rate might obtain from the Excise, on payment of two guineas a year, a license authorizing him to sell beer by retail in his dwelling house, whether for consumption on the premises or not. Between October, when the Act came into force, and the end of the year, 24,342 licenses had been taken, in Liverpool at the rate of about 50 new beerhouses every day for some weeks.

The large brewers had indeed called attention to the Report of the Committee of 1818 in their favour, but they intimated that if the beer duties remained as they were, "the beer trade would gradually sink, and the consumption of spirits would take their place," and that "the weight of the beer duty was so great, and the pressure of it so increasing, that it could only be borne by strong backs." In fact, their great object was to get the duties reduced, and they uttered a solemn warning that in case the retail trade was opened and made a free trade there would only be a change from one class of retailers to others, from the publican to the beer shop, but not from the great brewers to the smaller ones. Mr. Charles Barclay said it would be the destruction of immense property, "it would change the beer trade, from victuallers to chandlers, those who would adulterate and spoil it, and instead of having any benefit from it, the country gentlemen

would soon be up in arms by having beer shops and beer houses established in every part of their country." He cited the example of Scotland (which seems to be a country selected for experiment), where the trade in spirits had been perfectly free till two years before, and where the freedom had been found so injurious that Parliament had had to limit the number in order to obtain greater security from the proprietors of houses of value, who would be very careful in the conduct of their houses lest they should lose their license. He ended by saying that if the Chancellor of the Exchequer would "take off the duties on beer," then the brewers would risk the trade being open although they disapproved of it.

The Committee appear to have thought that much good would result from the separation of beer drinking from the drinking of spirits, to which the worst evils of intoxication were attributed. Their first finding was "that it is the opinion of this Committee that from the tenth day of October next (1830) it should be lawful for all persons in England and Wales to sell beer by retail under the regulations hereafter specified." The result was quite different to what had been expected. Petty beer houses sprang up all over the country and a very common complaint was that houses were built apart from villages for the express purpose of being licensed, although the whole rental was not more than fifty shillings and the accommodation a mud room and a mud cellar. Riots sprang up and complaints came from all sides, both from rich and poor. For the purpose of control magistrates encouraged holders of beer licenses to take out spirit licenses, and spirit license holders enlarged premises to meet competition with increased opportunity for drinking.

Within the next 10 years the quantity of malt used for brewing increased by 28 per cent., but the quantity of British spirits consumed increased by 32 per cent.

Within three years another Committee sat upon the subject, and resolved "that it is the opinion of this Committee from the evidence that has been adduced that considerable evils have arisen from the present management and conduct of Beer houses," and they proceeded to suggest various regulations. But, nevertheless, bad results continued, and by 1854 those results were proved to be quite the opposite of those intended. The sellers of nothing but beer were unable to make an honest living in competition with the publicans who combined beer selling with the far more profitable sale of spirits, and consequently the Beer houses resorted extensively to adulteration in order to sell at a sufficiently low price, and were almost forced to permit every kind of disorderly conduct on their premises, in order to attract and keep sufficient custom. The spirit traffic was not diminished, and in 1834 the Act had to be amended by making a magistrate's certificate compulsory before a license could be obtained. It is evident that the lesson which might have been learnt from the old time Act permitting anyone to distill was not taken to heart by the legislature.

The mere consolidation of Acts, and ensuing empirical legislation upon that basis was not sufficient for the restriction of abuses, and in 1834 a Select Committee of the House of Commons was appointed to "inquire into the extent, causes, and consequences of the prevailing vice of intoxication among the labouring classes of the United Kingdom." This Committee made a report which affords a valuable insight into the position of the trade and the

public attitude towards drink at that time. The Committee considered that the habit of intoxication was declining in the upper classes, but had increased in the lower, and gave a sad picture of conditions in the East and West of London and in Lancashire. A noticeable finding is their appreciation of the change of opinion among the more educated classes, a change which has been making continual progress during the last hundred years.

That change of opinion has gradually spread, and moderation in drinking has crept in by opinion, but not by force. The last half century is sufficient proof. Nobody who has reached the age of fifty could produce facts, or if he casts back his memory truly assert, that excess in drinking has increased. On the contrary, there is abundant evidence that it has decreased, and is continuously decreasing. There may have been waves towards the increase of consumption per head, when times of prosperity have put unusual money into the pockets of individuals, but the whole tendency of thought and practice has been towards the reduction of the amount both of spirits and beer consumed per head by the population of this country. The reduction has been noticeable in the country as a whole, and also both in urban and rural districts respectively. It has not been confined to England, but the same tendency has been shown in Scotland and Wales.

The Committee made a large number of recommendations, many of which are similar to the panaceas suggested at the present time. The following Summary of Findings gives the chief results of their inquiry :—

1. Extent of evil.
   Decline among higher and middle classes.
   Increase among labouring classes.

2. Remote causes.
   - Former example of upper classes.
   - Continuance of ancient convivial customs in connection with important events in life, and with commercial transactions.
3. Immediate causes.
   - Increased number of places where intoxicating drinks are sold, average about 1 to 20 families.
   - Reduction of duty on legally distilled spirits.
   - Further reduction of price by admixture with spirits illegally distilled.
   - Additional allurements, due to increased competition between houses.
4. Consequences to individual character.
   - Destruction of
     - Health, and Mental capacity and vigour.
     - Irritation of worst passions.
     - Extinction of moral and religious principles.
5. Consequences to National welfare.
   - Waste of Grain by conversion of nutritious food into poison.
   - Loss of productive labour, average 1 day in 6.
   - Loss of property at sea, through avoidable accidents.
   - Comparative inefficiency of Army and Navy.
   - Injury to national reputation abroad, through behaviour of seamen in foreign ports.
   - Increase of pauperism.
   - Spread of crime.
   - Retardation of improvement.
6. Remedies.
   - Legislative and Moral.
   - Immediate and Prospective.

Recommendations.

26. Separation of houses where intoxicating drinks are sold into four distinct classes :—
    - Sale of Beer only, for consumption Off premises.

Sale of Beer only, for consumption On premises.
Sale of Spirits only, for consumption Off premises.
Inns or hotels, providing bed and board, where spirits, wine, and beer may all be sold.

27. Restriction of number of houses of each class
In towns by population,
In country by distances and population.
Licenses to be annual, granted by magistrates, not by Excise.
License fees to be increased, especially for spirits.
Progressively increasing fines for disorderly conduct, with forfeiture of license and closing of house for repeated offences.

28. Earlier hours of closing at night, except for inns.

29. Beer houses to be only open 1 hour in afternoon and 1 hour in evening on Sundays, for supply of families.
Spirit houses to be closed all day on Sunday.
Inns only to serve travellers and inmates.

30–1. Spirit shops to be inspected, and not to deal in groceries, or other provisions.

32–3. Spirits to be served to Army and Navy only as medicines, and Merchant Ships to pay full duty on their supplies of foreign spirits.

34. Wages not to be paid to workmen in Public Houses.

35. Wages to be paid in exact amounts due, no need to go to Public House for change.

36. Wages to be paid early, on morning of principal market day, to give wives a chance.

37. Prohibition of Lodge Meetings in Public Houses.

38. Establishment of Public Walks and Gardens, Open Spaces for Recreation, Libraries and Museums.

39. Reduction of duty on Tea, and other non-alcoholic drinks.

40. Encouragement of Temperance Societies, whose "only bond of association is voluntary agreement to abstain from use of ardent spirits as a customary drink, and to discourage by precept and example all habits of intemperance in themselves and others."

41. Diffusion of sound information.
42. Reformation of pernicious usages and courtesies.
43. A National system of Education, which should embrace as an essential part information about the nature of spirits and inculcation of a sense of shame at personal degradation.

8. Ultimate or Prospective Remedies.
   Importation of Distilled spirits and their manufacture from grain to be absolutely prohibited.
   Distillation from materials other than grain to be confined to purposes of Arts, Manufacture, and Medicine.
9. Example of other countries.
   American Army and Navy.
      Issue of spirits discontinued, nutritious articles substituted, "with benefit and contentment to all parties."
   American merchant ships, which only use spirits for medicine, obtain freights in preference to English vessels, through public conviction of their greater safety.
10. Concluding suggestions.
   Legal diminution and ultimate suppression of existing facilities and means of intemperance.
   Enlistment of public opinion by immediate circulation of abstract of evidence "as was done with the Poor Law Report . . . the national cost of intoxication being tenfold greater in amount than that of the Poor Rates . . . and pauperism itself chiefly caused by habits of intemperance."

As to the ultimate or prospective remedies, it does not appear that any notice was taken of the effect which prohibitive legislation had produced when it had been attempted by previous Parliaments. But although prohibition seems to be hinted at as a remote result, the

subject is treated very cautiously. It may be noted that nothing whatever is suggested as to local option, but that other theories of to-day are given prominence, and the recommendations clearly indicate compromises with a view to giving satisfaction to different interests.

The old theory that grain would be wasted by using nutritious food which would otherwise be consumed, appears as a protective recommendation; and protection is also aimed at in the prospective remedy of prohibition of distilled spirits from abroad. America comes into the picture in relation both to the Army and Navy.

The forms of protection are somewhat different, but the principles underlying them recall a petition presented to Parliament in 1673 which requested "that brandy, coffee, rum, tea and chocolate, may be prohibited, for these greatly hinder the consumption of barley, malt and wheat, the products of our land."

The recommendations which have been adopted either by legislation or by the force of opinion, are important. Annual licensing by magistrates is proposed, restriction of hours on Sundays, payment of wages otherwise than in Public Houses, and the recognition of the value of Public Walks, Gardens, and open spaces for recreation, and of Libraries and Museums, are all interesting features.

The Beer-house Act of 1834 amended the Act of 1830 and drew a distinction between licenses for consumption on and off the premises, reducing the fee for the latter to a guinea and increasing that of the former to three guineas. The "on" beer-house license was to be granted only on production to the Excise of a certificate of good character signed by six ratepayers, the result being that the full publican's license was subject to the control of the licensing

Justices, while the beer-house license was outside their purview.

Owing to the political position any very drastic changes were not easy to effect, but in 1839 an Act was passed for closing Public Houses in London from midnight on Saturday until 12 o'clock on Sunday morning. The Committee had called attention (para. 29 of Summary of Findings) to the fact that on Saturday night and Sunday morning there was more drunkenness than in the whole of the rest of the week, particularly in London, and many witnesses had spoken of the orgies existing in the Metropolis during those hours. To quote the words of Dr. Shadwell, in his book on "Drink, Temperance and Legislation": "This Act worked wonders. . . . It did more to diminish public drunkenness than any single measure before or since. Its immediate effect is shown by the drop from 12.178 to 7.919 in the proportional police figures," and this though a large increase in beer-shops was taking place at the same time. This increase was dealt with in 1840 by enactments that licenses were only to be granted to the real resident occupier of premises, under a property qualification and other conditions, with the object of getting rid of speculative and poor Beer-shops or Pothouses, where the worst abuses existed. These two Acts are important, because both of them were effective, and indicate the lines upon which it would seem that the Legislature can most safely and successfully act, and upon which, with the consent and support of the trade, Parliament has recently acted, though there was a long road to be traversed before these points were appreciated either by Parliament or by the trade. The balance between too much license and too much restriction is not too easy to effect.

The remarkable change, due chiefly to public opinion and partly to instances of sane legislation, was made clear in the evidence and report of the Select Committee of the House of Commons on Public Houses in 1854, whence it appeared that great alteration had occurred within twenty years. This change is perhaps the more remarkable because the Industrial age was in full swing, and the thronging of persons into the towns might have been likely to lead to worse conditions as regards the consumption of liquor.

Opinions and legislation cannot be credited as the sole causes of this change. There had been other movements, effective in themselves or influencing opinion and legislation, which had had power during the period. Amongst others a Queen sat upon the Throne, the police had been improved in status and methods, and the condition of the people as a whole, in spite of bad periods of want and hardships, had been tending to greater prosperity and better social usages, spreading down and out.

Education of public opinion had been aided about 1830 by such societies as " The British and Foreign Temperance Society," which required from its members abstinence from distilled liquors, but did not condemn fermented liquors, such as beer, wine, and cider. Their influence, however, except for the results of the fervid campaign of Father Mathew, chiefly in Ireland, between 1838 and 1842, soon waned when the cry arose, not for moderate drinking, but for total abstinence from all alcoholic drinks. The word " Teetotal " was coined in the North of England, where the movement was specially pressed, and the efforts of persons animated " by a desire not so much to benefit themselves as to do good to others," as Dr. Dawson Burns

remarks in his "Temperance History," were carried out so fanatically that the Temperance movement as a whole was, if anything, harmed by heated brains. Once again attempts at undue restriction and disregard of the lessons of the past that law without liberty is not freedom, tended to defeat the objects of the reformers of other peoples' morals and habits; and it may be remarked that if the brewers were guilty of disregard of science, reformers were still more so. Drink was denounced as "the accursed thing," as evil as the "Scarlet Woman." No account, then or later, was taken of its values, of the necessity of many of its constituents to human life, and, though often the source of quarrels, its unrecorded merits in promoting social goodwill and other amenities of human society.

CHAPTER IV

SUNDAY CLOSING AND MR. GLADSTONE'S BILLS, 1850–1860

BETWEEN 1834 and 1854, when the next very important Committee dealt with the Liquor question, great changes had taken place in the history of the nation, in taxation, in repeal of the Corn Laws, in improvement of transport, in all the events of the early years of the reign of Queen Victoria.

The Industrial Age was moving forward fast, while Factory Acts were in a very inchoate condition, and indeed may be said to have been practically non-existent. The school of thought, so commonly known as the Manchester School, prevailed in the country, and prevented the big houses from realizing the value of co-operation and assistance.

Just as the idea of public injury by monopoly, although found to be invalid by the Committee of 1818, had enabled its adherents to obtain the Act of 1830, so the idea of "laissez faire" governed the minds of those who directed the trade. The pursuit of that doctrine, as much as the free beer-house, gave opportunity for attack, owing to the resulting abuse of the tied house system, keen competition to sell liquor at any cost, and no concerted effort within the trade to improve its conditions and make it consonant with the growing demand for moderation, spreading, as has been said, down and out.

No definite conditions of interest or definite objects governed all the parties, legislators, reformers, the trade, and the people. The people themselves were, so far as the older generation was concerned, accustomed and, it may be, inured to hard drinking, from the example of their forefathers and the habits of the country. Heavy taxation, as has been seen in the report of 1834, was the chief cause of objection on behalf of the brewing industry. An attempt had been made to check the progress of spirits by the legislation of 1830, and within a brief period the results had been shown to do more harm than good. The patchwork legislation of the later thirties had improved matters, but legislators, philanthropists, and indeed, the trade itself, were not satisfied with the practical results.

The trade had the difficulties that the law, however unwittingly, had actually inaugurated and protected bad houses, that taxation was heavy and subject to continual alteration, and that it found itself in a continual attitude of defence against aggression. Further the trade, it may be said, had not risen to the conclusion that bad houses had best be improved or obliterated. Even if that idea had been forthcoming, though possibly it was foreshadowed in the development of tied houses, improvements were restricted through the requirements of magistrates and the kaleidoscopic changes in regulations, as well as by difficulties of finance; and in some measure it seems to have been felt that an insecurity of tenure existed and that consequently no heavy expenditure upon alteration could be safely made.

Nevertheless it is clear from the evidence of the Committee of 1854, that even within the twenty years since 1834 a great change had taken place.

That Committee was appointed by the House of Commons " to examine into the system under which Public Houses, Hotels, Beer-shops, Dancing saloons, Coffee houses, Theatres, Temperance hotels, and places of public entertainment, by whatever name they may be called, are sanctioned and regulated." The Committee sat for 41 days and published their report and the evidence in 1,174 folio pages. Their resolutions may be shortly set down as follows :—

1. No Intoxicating drink should be sold without a license.
   Referring to
   - 1½*d.* table beer sellers, who did not need a license, but often sold stronger ale.
   - Vintners, privileged to sell wine without license, and often lending their names to non-vintners.
   - Theatres.
   - Bush-houses and hush-shops, private houses in which beer was brewed and sold.
2. There should be one uniform license for the sale of intoxicating drinks.
   Existing requirements differed in case of different classes, e.g.
   - Wholesale Wine dealers, Beer sellers, and Spirit dealers.
   - Victuallers or Publicans.
   - Beerhouse Keepers " on " and " off."
   - Cider and Perry sellers.
   - Grocers, licensed to retail " sweets, made wines, mead, and metheglin."
3. Licenses should be issued by magistrates at sessions holden for that purpose.
4. It should be open to all persons of good character to obtain such license, on compliance with certain conditions, and the payment of a certain sum.
5. Every person, previous to obtaining a license, should himself give bond, and find two sureties to be bound with

him, for the due observance of the law and conditions on which the license was granted.

6. In large towns and populous places there should be Inspectors of public houses and of all places of public refreshment and entertainment.

If the proprietor was convicted of trading in prohibited hours or without license, customers should be liable to half the penalty imposed on the proprietor.

In the body of the Report other recommendations appear:—

p. 11. The distinction between Beer shop and Public house should be abolished.

It works unfairly, the Public house can make profit on spirits, and undersell the beer-house keeper, who has to make his profit on beer only, and is driven to adulteration, and to the encouragement of gambling and other disorders to attract custom, in order to compete with the Public house.

Excise have no power over beerhouse licenses, except after notice from magistrates of conviction. Magistrates think conviction enough, and fail to send notice.

The idea of the Beer shop, viz.:—Provision of beer away from the drunkenness and disorders attendant on spirit drinking, had proved a failure.

Beer shops, like public houses, were mostly tied to brewers, who either owned them, or held leases as security for loans.

Beer shops required much less capital than Public houses, and were too numerous, attracting those who hoped to get a Public house license later, and many who had forfeited Public house licenses by disorderly conduct.

p. 12. Instead of a fine there should be power to suspend a license for a limited period, to close the house for one day or any period up to one month.

This would give brewers and others serving the house a direct interest in the character of the proprietor.

p. 12. The sum to be paid for a license should depend solely on population, and not on the rateable value of the house.

p. 15. Sale of intoxicating drinks should be under strict supervision and control.

So much good had resulted from inspection of Common Lodging Houses by police selected for that particular duty that the Committee strongly advise the adoption of the same system in regard to sale of intoxicating drinks.

p. 23. The Zoo, Crystal Palace, National Gallery, British Museum, and other places of public instruction, some of which were paid for by the nation, should be open on Sunday, the only day when many can visit them.

Evidence of diminution of intemperance by the provision of such counter attractions to the Public house adduced from Kew Gardens, the Dublin Zoo, and Chatsworth.

p. 26. Dramatic and musical entertainments should be encouraged as counter attractions to drinking habits, but should be dissociated from sale of intoxicants.

As regards the evidence before this Committee, a Committee of the House of Lords in 1850 had already reported in strong terms on the failure of the Beerhouse Act of 1830 to effect its object, and the House of Commons Committee in 1853–4 heard much additional evidence on the same subject, its chief recommendation being that the distinction between beer-houses and public-houses should be abolished, a proposal practically reversing the principle of 1830.

Mr. T. W. Brown, who had been a magistrate in Shropshire from days before the passing of the Beerhouse Act, said that in his experience it had been the means of defin-

itely increasing drunkenness and crime, and further that the majority of offences brought before the magistrates originated in the beer-houses rather than in the public-houses, which were kept by men of a superior character.

The chaplain of Preston gaol, deriving his information from the prisoners under his care, gave startling figures of the numbers of beer-houses in North-East Lancashire which pandered to sexual vice, either actually on their own premises, or in auxiliary establishments close by.

Another witness spoke of beer-houses being opened in isolated country districts, for the sole purpose of harbouring poachers.

The beer-house license, granted by the Excise authorities practically without enquiry to anyone who produced a certificate of character signed by twelve persons, was so easily obtained that its possible forfeiture acted as no deterrent to disorderly practices ; and while a public-house license was rarely granted by magistrates except for premises on the open street, beer-shops could be opened up any dark alley or in any out-of-the-way spot. The opening of a beer-shop entailed no capital outlay ; a bench or a table in a cottage parlour was sufficient in the way of premises.

The easy abuse of proposals intended for the public good had thus been amply illustrated by the 1830 policy. Its intention had been to wean men from the public-house where spirits were on sale, and to confine their drinking to the comparatively harmless beer ; its result had been to establish everywhere disorderly houses, whose keepers had hardly anything to lose by being convicted of offences which the publican had far greater incentive to avoid.

It may be noted that one of the most important witnesses

before the Committee, Sir Richard Mayne, Chief Commissioner of the Metropolitan Police, could only point to one greater plague spot at the time in London than the beer-shop, and that was its latest antidote, the coffee-house.

Here exactly the same sequence was in progress ; coffee-houses, established at first in the interests of temperance, had lent themselves just as easily as beer-shops to abuse, and were even harder to control. Beer-shops had to close at a fixed hour, midnight or earlier according to locality, but coffee-houses were under no restrictions, and kept open till three a.m. or the whole night. The police had a right of entry into beer-houses, though not of interference unless there were disorder or sale of liquor after hours, but they had not even right of entry into coffee-houses. There was nothing to prevent beer or spirits being sold in coffee-houses except the risk of possible detection, not difficult to guard against by pre-arranged signals, and in Sir Richard's opinion such illicit sale was very frequent. It would perhaps be difficult to find a better instance of the principle that general improvement is more likely to result from change of habit on the part of the public, than from the provision of new types of houses to which they could resort, although good types may aid habits of voluntary self restraint and orderliness. As Sir Richard Mayne said, " people would go somewhere," and so long as they were liable to become disorderly in places where they congregated, it was desirable that the police should have rights of entry and of supervision in them all.

At the period of the Select Committee of 1853–4 the only limitation of the hours of opening in the case of fully licensed public houses had been under the provisions of the Act of 1839 for London, extended to the whole of England and

Wales in 1848. These Acts laid it down that these houses must close at midnight on Saturday, and remain closed till noon, afterwards 1 p.m. on Sunday. The benefits which had resulted from this statutory curtailment of hours had justified the enactments; and it was now a question whether such restriction could be carried further without undue interference with the legitimate satisfaction of public needs.

The general tenor of the evidence was that no hardship would be inflicted on anyone by the compulsory closing of public-houses every night not later than midnight, and that the majority of publicans would themselves welcome such restriction. Several publicans also gave evidence that they had for some years voluntarily kept their houses closed all day on Sunday.

While it was true that the closing at midnight on Saturday, dating from 1839 in London, had effectually stopped the worst outbreaks of drunkenness and disorder, which before then had been much worse in the early hours of Sunday morning than at any other time in the week, it was also still the case that the greatest amount of disorderly behaviour took place on Saturday and Sunday nights, and that on other days the hour after midnight was the publican's most trying time.

On the other hand there was evidence of a good deal of evasion, even of the existing law, especially in the towns of the Midlands and the North, by beer-house keepers and the lower class of publicans, who continued to do a Sunday morning business by means of side entrances and "concealed rooms or premises at the back, where drunkards are harboured out of sight of the police."

A considerable public opinion was, however, growing in favour of some further limitation of the hours, and the

final recommendation of the Committee was that all places for the sale of intoxicating drinks should be closed at 11 p.m. on week-days, and not allowed to reopen before 4 a.m., and that on Sundays they should be closed all the day except from 1 to 2 in the afternoon, and from 6 to 9 in the evening.

This recommendation was evidently considered a little too drastic at the moment, for later in the same year an Act was passed fixing the hours of Sunday closing for the whole of England and Wales, but leaving the week-day hours unaltered.

On Sundays, by the 1854 Act, the sale of liquor for consumption on or off the premises was forbidden except between the hours of 1 and 2.30, and after 6 o'clock All houses where liquor was on sale were ordered to close on Sunday at 10, and might not be re-opened till 4 o'clock on Monday morning. The same applied to Christmas-day, Good Friday, and other specially appointed days. Refreshment for *bona fide* travellers was permitted, and for the first time that phrase, later so great a bone of contention, found its way into the statute book.[1] In the following year, 1855, an Amending Act lightened even these restrictions, and made the hours of Sunday afternoon closing 3 to 5, instead of 2.30 to 6, while the final closing was to be 11 instead of 10.

The limitation of the opportunities for Sunday drinking, fixed by these two Acts of 1854-5, like the earlier limitation of 1839-48, is worthy of note. Its immediate effect was shown by a drop of four million gallons in the annual consumption of spirits.

[1] *Report of Royal Commission on Sunday closing in Wales*, 1890 Part I, p. xii.

It would seem that, of all the efforts to check the evil of intemperance by legislation, the most evidently beneficial have been those which have been directed against definitely proved occasions of disorder. Drinking throughout Saturday night and on into Sunday morning was the first and greatest of these evils. Drinking throughout Sunday afternoon and on into Sunday evening was the second to be dealt with. Both these habits resulted in public disorder and domestic misery, and it could be reasonably said that by the curtailment of the hours of Sunday opening no hardship was inflicted on self-respecting citizens and that the hours during which the sale of drink was still permitted on Sunday were sufficient for all ordinary needs.

Similarly the later Act of 1874, which carried a step further the regulation of the hours of opening and sale, and fixed closing hours for week-days as well as Sundays, was still in the category of reasonable legislative interference. It dealt with what has been called the " drunkard's hour," the time round about midnight when lingering in the public-house or beer-house was more provocative of misbehaviour and disorder than at any earlier period of the evening.

The exact point at which restriction of the hours of sale passes the limit of useful legislation, and begins to be regarded as a tyranny, and to provoke widespread habits of evasion even among otherwise law-abiding people, may vary somewhat with different times and places, but it may be said that a mean exists and can be found, by which the drunken and disorderly-minded can be protected from themselves, without unduly interfering with the rights of the great majority of well-behaved and temperate citizens.

The other recommendations of the 1854 Committee were mainly in the direction of unification and simplification of

the licensing arrangements. Evasion of the law had been encouraged in various ways by many needless distinctions between different kinds of licenses.

Wine and spirit merchants were licensed, for instance, as wholesale dealers, and though they were allowed to sell wine in single bottles, they were prohibited by law from selling at one time less than two gallons of spirits. Evidence was frankly given that this law was broken by the best of them; any dealer was prepared to take the risk of information being laid against him rather than inconvenience, and perhaps lose, a good customer by refusing to let him have a couple of bottles of brandy when he needed them. In the lower ranks of liquor sellers the same temptation to exceed the limits of the license was a constant source of trouble to the Excise authorities and to the police, and clearly pointed to the desirability of lessening the number of distinctions between different forms of license.

Houses which were only licensed to sell for consumption off the premises did a considerable indoor business also; holders of only a beer license sold spirits; holders of a beer and spirit license sold wine. A certain class of small beer sold at 1½*d* a quart did not require a license, but it was shown that "as good ale as anywhere else" could be obtained in these unlicensed houses.

Persons who were free of the Vintners' Company claimed the right to sell wine without a license, and their immunity from supervision enabled them to sell spirits also without much fear of detection. Their wine-rooms, or "Shades," were very popular; and a vintner's name and privileges were often "borrowed" and used as a cover for this trade.

There were in certain parts of the country a considerable number of private dwellings, in which the inhabitants

brewed their own beer, and made a practice of selling it without a license to certain known and regular frequenters. In Staffordshire, during local fairs, unlicensed houses hung a bush over their doors as a sign that beer could be obtained within.

Theatres again were in an anomalous position, owing to contradictory provisions in two Acts of Parliament; and in practice they were allowed to sell excisable liquors without a license.

The Committee recommended that all these distinctions should be abolished; that there should be no selling of intoxicating liquor anywhere without a license, and that this should in all cases be issued by the magistrates at special licensing sessions, only to such persons as could give bond themselves, and could produce in each case two persons to be bound with them, for the due observance of the law and of the conditions of the license. They also recommended that all places where intoxicating drink was sold should be subject to frequent and regular inspection.

The right of entry by the police into "any house or place of public resort for the sale of beer, wine, or spirits, or other fermented or distilled liquor" was included in the Act of 1854, but it was not until 1869 that any measure of magisterial control was extended to all retail licenses for the sale of intoxicating liquors. By the Wine and Beerhouse Act of that year the grant of beer-house licenses by the Excise was for the first time made conditional on the production of a certificate from the justices assembled at their annual licensing session.

In the evidence given before both the 1834 and 1854 Committees of the House of Commons, there emerges a

growing sense of the moral and social value of wider opportunities for the employment of leisure time, and this is emphasised with increasing force in the recommendations of the two Committees.

While the 1834 Committee advocated " the establishment of public walks and gardens, open spaces for recreation, libraries and museums," its successor in 1854 went further and pleaded for the Sunday opening of the Zoological Gardens, the Crystal Palace, the National Gallery, the British Museum, and other such places.

" Your Committee," they reported, " cannot conclude without calling attention to the fact of how few places of rational enjoyment are open to the great mass of the population on Sunday, which serve as counter attractions to the public-house. They have it in evidence that wherever such opportunities have been provided, they have been eagerly seized upon, and have led to the decline of intemperance."

In particular, evidence was brought as to the use made of the public parks in Manchester, the Phoenix Park Zoo in Dublin, the Duke of Devonshire's grounds at Chatsworth, to which hundreds of workpeople went from Sheffield in family parties every Sunday, and the recent opening of Kew Gardens.

In regard to the last-named, Sir Joseph Paxton said to the Committee: " There is a better taste growing up among the people. If the working classes have the means, they will improve themselves on Sunday. The Kew Gardens have been open on Sunday since last year, and a very large number of people go into them."

The evidence with regard to Chatsworth was particularly significant. At first the house and grounds were both open

on Sundays, and though the visitors from Sheffield were quite well-behaved, the house servants asked to be allowed to have their Sundays undisturbed, and for a few years the Sunday privileges at Chatsworth were withdrawn. In consequence the parties which still came in large numbers spent their time in the village public-house, and became extremely disorderly and a great nuisance. The Duke of Devonshire then re-opened the Chatsworth grounds but not the house, and the nuisance ceased at once; people left their vehicles at the public-houses, and spent long afternoons in the grounds, causing no disturbance, and just stayed in the village long enough on their way home to obtain reasonable refreshment, and no more.

There can hardly be any doubt that one of the most potent influences since that time, in the direction of general moderation and restraint in drinking, and of the growth of a public opinion in all classes condemnatory of the older custom of "soaking" in public houses, has been the continuous widening of intellectual and artistic interests, and the increased facilities for quick transportation from the towns into the country, where fresh air and the beauties of scenery can be enjoyed.

Another great change which has exercised a similar influence, has been the large extension in late years of the workman's dietary and choice of foods. Our country, to a large and increasing extent, depends on foodstuffs grown at the ends of the earth and consumed weeks and even months after they have left the places of their origin.

To quote a recent writer,[1] "The general improvement in the diet of English people during recent years is almost a revolution. A town worker of to-day probably eats more

[1] H. Allsopp, *The Change to Modern England*, p. 208.

varieties of food in any month than he would in a year a century ago. His food is much more varied; he has a greater range of meats, of fruits, of vegetables, of cereal foods, to choose from. Perhaps more important still, he can have them all the year round."

This immense widening, among even the poorest classes, both of intellectual and physical interests, has probably contributed as much as any cause to the almost universal distaste for, and disapproval of, the heavy and continuous drinking of a century ago.

After the restriction of Sunday hours of sale in 1854–5 the next important legislative experiment was the attempt made in 1860 by Mr. Gladstone, as Chancellor of the Exchequer, to popularise the consumption of light foreign wines, both in restaurants and in the people's homes.

His first step was greatly to reduce the import duties upon wine, especially upon the lighter kinds, which were in future to pay only 1*s.* a gallon. On the stronger sorts, containing approximately 40 per cent. of alcohol, he stated in the House of Commons: "Two shillings is as low as we dare go, for fear of compromising the revenue from spirits," with which such strong wines would be in competition.

"Our wish," he said on February 27th of that year, "is to place access to the article of wine within reach not only of the class which now uses it, but within reach of the whole middle classes—of the lowest order of the middle classes, and even of the better portion of the working classes—I do not say as an article of ordinary consumption, but one which they may use on those occasions when they provide themselves with something better than their daily food."

The lowering of the duties was immediately followed by the passing of the "Refreshment Houses and Wine Licenses Act," which legalised the retail sale of wine, both by refreshment houses for consumption "on," and by shopkeepers for consumption "off" the premises, on payment of an Excise license only, without any reference to the magistrates. This was the inauguration of what are commonly spoken of as "Grocers' licenses," though in fact the licenses were by no means to be confined to grocers; the third section of the Act says: "Any person who shall keep a shop for the sale of any goods or commodities . . . shall be entitled to take out a license under this Act to sell by retail, in reputed Quart or Pint bottles only, foreign wine not to be consumed on the premises."

In moving the second reading Mr. Gladstone said: "It would be absurd to propose a great diminution of the wine duties, unless we were prepared to submit at the same time a measure by which the channels for the sale of wine and for carrying it to the houses of consumers could be enlarged and altered."

He repeatedly emphasised his conviction that it would prove to be a "temperance measure." "Its importance," he said, "is not for fiscal purposes only, but on the ground that it is a good and wise measure . . . for the promotion of temperance and sobriety as opposed to drunken and demoralised habits."

His argument was twofold; first that it was wrong that the facilities for obtaining potent spirits should be so enormously in excess of those for obtaining light wines, and secondly that the habit of drinking ought to be brought into closer relationship with the eating of meals.

"Beer," he said, "is the great national drink of the

population, and evidently requires much the largest number of houses to be licensed for its sale. But next to beer I should think those who are anxious for public sobriety would naturally desire that greater facilities should be given for the sale of wines as compared with spirits. On the contrary you give a positive preference to the sale of spirits, because a man may have a license to sell spirits without one also for selling wine, but he cannot have a license to sell wine without one also for selling spirits. I appeal to the advocates of temperance whether it is possible to justify legislation so absurd as that. In this country we have 63,000 persons licensed to sell spirits, and 38,000 of them are not licensed to sell wine also. I think it is an advantage to give to the people much easier access to a mild liquor than they have hitherto enjoyed."

In regard to his second point, the licensing of refreshment houses to sell wine with meals, he said :

" There are in England 70,000 to 80,000 drinking houses which are in no real sense eating houses at all. Is it not obvious that the old system of separating eating and drinking is the most unwise one that we can pursue if we want to promote sober habits ?

" I recommend the present Bill as one which will have a decided tendency to the promotion of habits of sobriety among the people . . . by offering the means of reasonable access to the refreshing influence of liquor in conjunction with their meals."

The policy outlined by Mr. Gladstone, and embodied in the Act of 1860, of promoting sobriety by the substitution of milder for more potent drinks has been pursued during and since the War, and the results of the lowering of the strength of all spirits sold in recent years will be considered

in its place ; but Mr. Gladstone's efforts to extend the wine trade in this country produced results on which he had not reckoned.

The following quotations from a retrospective survey of the English wine trade up to 1911, which almost recall the criticisms on the Beer-house Act of 1830, are illuminating.

" During the first half of the 19th century the wine trade was in the hands of a comparatively small number of private wine merchants, who obtained their supplies either direct from abroad or from a few large wholesale houses in London."

" Cheap wines were practically unknown. A wine merchant was expected to be a gentleman, possessed of considerable means and knowledge, which enabled him to give his customers long credit and fine quality ; his prices were no more questioned than the fees of a doctor."

" Mr. Gladstone's measure proved far-reaching ; it opened new channels to the activities of grocers, drapers, co-operative societies, and others. The number of wine-sellers increased far more rapidly than the number of wine drinkers."

" Competition became keener and less fair ; the practice of small profits and cash payments rapidly gained ground."

" In the eighties the phylloxera devastated the choicest vineyards of France. Good wine became scarce and expensive, and wine merchants had to ask higher prices."

" The ' Gladstone ' wine-sellers, whose name was legion, committed the fatal mistake of persevering with their low prices and ' cheap lines ' ; they could only do so by giving very bad quality."

" By the time the vineyards had recovered from the phylloxera low prices which spelt bad quality had destroyed

the confidence of a large number of former wine drinkers, and this last evil was more disastrous than the first."

The survey concludes: "Gladstone's wine trade policy had failed, not because of the principles on which it rested, but on account of the misuse of the facilities it afforded. Too many people sought to avail themselves of the opportunities offered; too many, alas, whose knowledge of unscrupulous circularising and advertising methods was far greater than their knowledge of wine. A large section of the public has thus had its confidence shaken in the virtues of genuine wine."[1]

Another evil which has been frequently attributed to "grocers' licenses" is the encouragement of secret drinking by women in their homes. In a few instances, as was proved by evidence before the 1896 Commission, persons with a craving for spirits have persuaded unscrupulous shop-keepers to supply them with gin or brandy, and to enter these liquors under other names in the periodical accounts they rendered; but that this has been done on any widespread scale is neither proved nor probable.

The principle of Mr. Gladstone's project of promoting temperance by the expansion of the sale of wine through ordinary shop-keeping channels, cannot be said to have been endorsed when in 1861, the very next year after permission to sell wine in single bottles was granted to the shop-keepers, similar statutory permission was given to the spirit dealers to sell single bottles of foreign or British spirits and liqueurs. This was a restriction constantly evaded, as shown by the evidence given in 1854, but in the arguments for the removal of the restriction no allusion whatever seems to

[1] *Wine Trade Club Lecture at Vintners' Hall*, November, 1911.

have been made to the temperance plea of which so much was made in the previous year when it was a case of single bottles of wine.

On May 6th, 1861, the Chancellor of the Exchequer, Mr. Gladstone, moved the following Resolution:—

> (6) That towards raising the Supply granted to Her Majesty there shall be charged and paid upon every additional Excise License to be taken out by any licensed dealer in Spirits in Great Britain to authorise him to sell by retail Foreign or British Spirits, in any quantity, not less than one reputed Quart Bottle, or as to Foreign Spirits in the bottles in which the same may have been imported, and not to be drunk or consumed on the premises, the sum of £3 3*s.* 0*d.*

The Chancellor said:—

"The law as it stood was not put into execution, not because it was ambiguous, but because it was revolting to public opinion. It was irrational in itself, and it had been found impracticable to induce the administrators of the law to give effect to it, or at all events to give effect to it without denouncing its irrationality.

"Many hon. members, even at home, and still more when staying away from home as at a watering place, must have had occasion for small quantities of spirits, and have found themselves not at liberty to buy them without sending to a public house. Every Government for the last twenty or thirty years had condemned that state of the law."

The only opposition appeared to come from the spokesmen of the licensed victuallers, who complained that they had been already hit by the "Refreshment Houses Wine

and Beer" licenses of the previous year, and that the rivalry established by those would now be extended.

The Chancellor replied that "the trade of the licensed victuallers was to supply liquors for consumption on the premises. It was in respect of that trade they paid for their licenses; consequently they had no *locus standi* in opposing a Resolution which had no relation to anything to be consumed on the premises; and in spirits not to be drunk on the premises he did not admit that they had any right to a preference, much less to a monopoly."

The effect was that wholesale spirit dealers, already paying a £10 license, could now take out an additional £3 3*s*. 0*d*. license to sell single bottles, while previously single bottles of spirits could only be obtained legally from the public house, where the spirits were said to be frequently of an inferior quality.

The second ideal on which Mr. Gladstone based his 1860 Act, viz. of "re-uniting the business of eating with that of drinking, from which by a fatal error it has been separated," has appeared again in various forms in later legislation.

"The Licensing Act of 1904 preserved and extended the disciplinary power of Justices with regard to the provision of refreshments. It was made a ground for refusing renewal without compensation, that the holder of an ale-house license had persistently and unreasonably refused to supply reasonable refreshment other than intoxicating liquor at a reasonable price."[1]

During the War the Board of Control endeavoured to extend the provision of meals for munition workers and others in public houses, but with disappointing results

[1] *2nd Report of Central Control Board (Liquor Traffic)* 1916.

except in specially suitable localities, and eventually reverted to the canteen system as their policy in general.[1]

In all ages there have been houses to which people have resorted for a sociable drink, without any desire to supplement it at the same time with a meal; and until habits have changed much more than they have as yet, the great majority of those who enter public houses will continue to demand liquid refreshments only.

In the 14th century A.D. Piers Plowman drew a picture of the ale-house, where parson and squire and labourer met together for a drink and talk; in the 14th century B.C. the beer house in ancient Egypt fulfilled exactly the same social purpose.

Professor Maspero tells us how in the Thebes of Rameses the Second "beer was the favourite beverage of the Egyptian people; it was made with a mash-tub of barley steeped in water, and raised by fermented crumbs of bread. When freshly made it was soft and pleasant to the taste, but was easily disturbed and soon turned sour. To remedy this defect an infusion of lupine was added to the beer, which gave it a certain bitterness and preserved it."[2] "Sweet beer, iron beer, sparkling beer, perfumed beer, spiced beer hot and cold, and beer of thick sticky millet," were all, in the days of Joseph and of Moses, among the regular attractions of the Egyptian beer house, which did an excellent trade, for drinking purposes only, among all classes of the population.

Many public houses to-day in London and other large centres supply excellent meals, especially at the hour of lunch. A cut from the joint with a plentiful supply of vegetables, followed by cheese or sweet, washed down

[1] Shadwell's *Drink in* 1914-1922, pp. 48-55.

[2] *Life in Ancient Egypt*, Maspero, pp. 28-30.

with a pint or half a pint of "bitter," as supplied by numbers of them to a score or more of regular customers every day, may be a far more wholesome meal at the price than the warmed-up dishes with fancy names which are obtainable at more decorative and popular resorts; but the number in each house who come in for such a meal is infinitesimal in comparison with those who come in for a drink.

CHAPTER V

Bills of the 'Sixties
1860–1875

During the decade 1860-70 the movement for imposing additional restrictions on the sale of liquor was actively supported both in Parliament and among certain sections in the country.

In 1863 and in 1868 Sunday Closing Bills were introduced, the first proposing to prohibit all sale of intoxicating liquors between 11 p.m. on Saturday and 6 a.m. on Monday, the second to prohibit all Sunday sales for drinking on the premises, but to allow " dinner and supper beer " for home consumption to be purchased during certain hours. Both these proposals were rejected

In 1864 Sir Wilfred Lawson introduced a Local Option or " Permissive " Bill. The purpose of this was " to enable owners and occupiers of property in certain districts to prevent the common sale of intoxicating liquors within such districts," in other words to enforce " prohibition " in any area by the vote of two-thirds of the ratepayers.

Sir Wilfrid's Bill represented the policy of the United Kingdom Alliance, who supported it whole-heartedly, and looked forward to total prohibition of the sale of intoxicating liquor throughout the country as its ultimate result.

About this time another society was coming into prominence, which rested on a broader basis than the Alliance, and more truly represented the British flair for compromise.

Starting in 1862 as the Church of England Total Abstinence Society, it found at an early date that total abstinence was too narrow a platform for effective work, and in the next year changed its name to Church of England Temperance Reformation Society. A few years later it dropped the " Reformation " from its title, and ever since has been content with the word " Temperance " to denote the special ground on which it takes its stand. During the more than half a century of its existence, its power has been largely due to the association within its membership of the non-abstaining moderate users of alcoholic drinks with those who abstain entirely.

Its chief organiser and spokesman in the sixties was the Rev. H. J. Ellison, Canon of Windsor, who expressed in a letter to the *Times* his disapproval of Sir Wilfrid Lawson's Bill, on the ground that it " sinned against the very principle of popular control which it was professing to uphold." " Why," he asked, " are the people to vote only ' all ' or none ' ? " Popular control should include other alternatives ; many people would be found jealous of interference with the rights of the minority ; such interference would be likely to lead to sharp re-action ; public opinion would often be found to favour moderate reforms while solidly rejecting prohibition ; his own plea was for progressive reduction of the number of licensed houses to the minimum needed to supply legitimate demand, with some compensation to deprived license-holders by means of a " licensed rental imposed on the remaining houses."

This last clause regarding compensation from within the trade was incorporated in a Bill introduced in 1871 by Mr. Bruce, afterwards Lord Aberdare, and had the approval of the brewers.

Although neither Sir Wilfrid Lawson's Bill nor Mr. Bruce's became law at the time, the principle embodied in the latter, of combining a gradual reduction of the number of licensed houses with some measure of compensation provided by the houses which remain, has been put into operation in the 20th century, under the Act of 1904.

It is worth noting that Canon Ellison, in re-publishing his letters to the *Times* with other matter in book form, definitely disclaimed any desire to bring about Prohibition either for the nation or localities.

" As I have been understood (*Times'* leader, September 28, 1878) to be aiming at ' prohibition ' only by a more circuitous route, I may as well say once for all that so long as there is a minority able to show that houses for the sale of beer, etc., are necessary for the supply of (as they hold it to be) a national want or necessity, the imposition of the arbitrary will of the majority in prohibiting such houses would be, in my opinion, a tyrannical use of an abstract right, to which the majority would never have recourse ; or if they did, one of two things would follow, either the majority would speedily become a minority, or the Legislature would properly interfere to prevent the interdict on the supply of the ' national want.' "[1]

During the same period an experiment in quite a different direction was tried in Liverpool, and afforded conclusive evidence, if such were needed, that laxity of administration was no more a panacea against drinking than undue repression.

The Liverpool magistrates in 1862 adopted the plan of granting entire freedom of trade to the liquor traffic within their jurisdiction. From 1862 to 1865 inclusive

[1] *Church Temperance Movement*, 2nd Edition, 1878, p. 116.

they licensed every applicant who could produce certain certificates of character. During these four years no less than 427 new public-house licenses were issued in Liverpool alone, and at the end of that time it was stated in Parliament without contradiction that "Liverpool was pre-eminent for drunkenness and crime in proportion to its population over every other seaport in the country."[1]

So strong a protest was then made by the citizens of Liverpool themselves, that the magistrates reversed their policy, and for some years afterwards granted very few new licenses.

This short-lived experiment was only the logical following of precedents set by the Legislature itself; both the Beer-house Act of 1830 and the recent Wine Licenses Act of 1860 were based on the same notion of encouraging freedom of trade; neither beer-house licenses nor "grocers'" licenses were subject to magisterial discretion as to numbers.

Liverpool magistrates remained divided in opinion; some of them were by no means convinced of their mistake,[2] although they had to bow in practice to the storm they had provoked; and Lord Derby instanced the Liverpool bench in 1869 as an example of the uncertain and conflicting principles on which benches of magistrates were wont to act on different occasions, pointing out that "a slight difference in the constitution of the bench made all the difference between the granting or with-holding of the license."

The one statute of importance dealing with the liquor traffic that was passed about this time was the "Wine and Beer-house Act" of 1869.

[1] *Report of National Temperance Congress, Liverpool*, 1884, p. 149.
[2] Sir H. Selwyn Ibbetson, in introducing 1869 Bill.

Four Parliamentary Committees, 1834, 1850, 1852, 1854, two of the House of Lords and two of the House of Commons, had condemned the 1830 Beer-house Act, both as to its policy and its results, and had recommended either its repeal or its amendment, yet beer-shops were still increasing rapidly under its provisions.

A short Bill was submitted in 1868 to the Home Secretary by an influential deputation, on which the Roman Catholics were represented by Archbishop, afterwards Cardinal, Manning, supported by other religious and moderate reforming bodies, which provided that after a certain date no fresh licenses should be granted under the 1830 Act. As these licenses had hitherto been purely personal, they would practically have been extinguished in ten or fifteen years. The proposal was however shelved, and in the following year, 1869, the Bill of a private member, Sir H. Selwyn Ibbetson, was taken over by the Government, and passed as an instalment of licensing reform, with a promise of a more comprehensive measure later.

The main provision of the Wine and Beer-house 1869 Act was to transfer the issue of beer-house licenses from the Excise, by whom they had been issued since 1830, to the magistracy, who were thenceforward enabled to exercise the same discretionary power in the case of applications for new beer and wine licenses as they already exercised in the case of spirit licenses, though they could only refuse a certificate for an off license, or the renewal of an on license existing on May 1st, 1869, on one or more of four specified grounds.

By this means the number of beer-shops, which had been increasing at the rate of 2,000 a year, was limited, and the Act had an effect upon the number, but whereas the

proposal of the previous year, simply to forbid the issue of new beer-house licenses by the Excise, would have resulted in gradual but complete extinction, this Act perpetuated some 53,000 existing beer-shops, and created in them " a new monopoly and a new vested interest."

Thenceforward the " ante-1869 beer-houses " remained secure in the continued renewal of their licenses, except in the comparatively few cases in which certain statutory grounds for refusal were proved against them.

The Wine and Beer-house Act of 1869 was important therefore as having inaugurated the policy of restriction in the number of licenses, which has been developed and extended since, but at the same time it tended to increase their value. One of its main results was to encourage brewers to invest more of their money in the retail trade, and to compete with one another for the control or ownership of licensed houses ; in other words it gave a distinct fillip to the " Tied-house " system.

The " Tied-house " system is discussed in a Pamphlet by Mr. E. A. Pratt, published in 1910. His statements may be briefly summarized as follows :—

1. The " Tied-house " system originated as a purely business proposition. Persons desiring to enter the trade, but not having sufficient capital of their own, borrowed money from brewers, and as one of the conditions of the loan undertook to purchase their supplies from them. This was an ordinary example of arrangements frequently made between manufacturers or wholesale traders and shopkeepers.
2. Between 1830 and 1869 beer-house licenses had little value, because magistrates had no power to refuse them to applicants who fulfilled certain easy conditions as to rateable value of premises. The policy of License restriction,

inaugurated in 1869, and steadily expanded since, tended to give existing licenses an artificial and increasing value. This accelerated the growth of "Tied-houses" in two ways; it increased the amount of capital which a prospective licensee had to find, and therefore the number of those who voluntarily applied to the breweries for loans; it also provoked a competition between the brewers themselves, to acquire the ownership of licensed premises, and so to secure for a long period as many outlets as possible for their products.

3. The policy of restriction in numbers was accompanied by a tightening of the regulations affecting licensed houses, so that the risks and responsibilities of the business became greater. An increasing number of "free" publicans were glad to sell out to the breweries, particularly as license values had gone up.
4. Since then one of the most marked tendencies in commerce has been the growth of the chain-store or multiple-shop system, in which manufacturing or wholesale firms enter into direct relations with consumers by means of the ownership of a chain of retail shops, administered and supplied from the central establishment. This system has been widely adopted in such trades as boots and shoes, groceries, tobacco, drugs, dairy produce, and catering. The legislative limitation of the number of possible trading outlets for breweries causes this policy to be specially suitable.
5. Licensees of "Tied-houses" are either tied tenants or Managers.
6. Tied tenants may have a lease, or be under a yearly agreement, or a three months' notice. The conditions of agreements vary in different districts, but generally they permit the sale of standard proprietary beverages, but not of the beer of the owners' local competitors. In some cases a tied tenant pays a lower rental for the house, but a higher price for his goods, than would be charged to a free tenant. A tied tenant gets far more in the way

of repairs and improvements from his brewery landlords, than a free tenant would get from a landlord who looked only to the rent for his return on capital.

7. Managers are carefully selected, generally from men who have been in the service of the brewery for several years, and whose capabilities and reliability have been tested in subordinate capacities. Generally a Manager is paid a stated wage, with no added commission on the sale of drink, and his promotion to a larger house will depend rather on his general efficiency than on his sales.
8. The large breweries supplement their careful choice of managers by a thorough system of supervision and control. This they effect through a body of expert inspectors, stock-takers, analysts, and surveyors, who are constantly paying surprise visits to the various houses, and making confidential reports on every aspect of the conduct of the house. The inspectors take note of the general behaviour, the cleanliness of premises and utensils, the service, and good order; the stock-takers of the provision of supplies, and the rate of their consumption; the analysts of the quality and purity of the drinks served, and the freedom from adulteration; and the surveyors of any structural or sanitary conditions that may need attention. A tied and managed house is therefore far more efficiently supervised than a house which is subject only to inspection by police, who have many other duties to attend to.
9. The allegation that brewers use "Tied Houses" in order to sell inferior beer is to imply that they are devoid of ordinary business instinct. Customers are not tied, and a house with a reputation for bad beer would soon lose trade.

Since Mr. Pratt wrote in 1910, brewers have been finding it to be increasingly desirable to substitute managers for tenants in their houses, more especially because of the introduction of a greatly improved service in the way of catering and provision of amusements. The old tenant-

publican understood beer, and knew something about spirits, but the running of a modern "improved" public-house needs an experienced restaurateur. Some of the large brewery companies arrange for a special course of training for prospective managers.

In 1871 a larger attempt was made by Mr. Bruce, on behalf of the Liberal Government of the day, to deal with Licensing reform, in the Bill to which reference has been already made.

His proposals pleased neither the brewers, who regarded them as far too drastic an interference with their trade, nor the teetotallers, who realised that the improvement and stabilising of licensing conditions would postpone indefinitely their cherished hope of prohibition, and eventually they were withdrawn in deference to these views, in spite of the consistent support given to the proposals by the *Times* and by a large body of middle class and moderate opinion.

Mr. Bruce laid down a series of propositions which he believed would meet with general concurrence, and framed his bill upon them.

In explaining his Bill[1] in Committee he said he would expect the House to concur in the following five propositions:—

(1) That under the existing system of licensing far more licenses had been issued than were required for the public convenience, seeing that there was at the time a public-house or beer-house for every 182 of the population.

(2) That the present mode of issuing licenses was unsatisfactory, no guidance being afforded to the magistrates

[1] *Parliamentary Debates*, April 3, 1871.

either as to the number to be issued or as to the respectability or responsibility of the persons seeking to be licensed.

(3) That no sufficient guarantees were taken for the orderly management of public-houses, or for their effective supervision.

(4) That the laws against adulteration were insufficient, and, such as they were, imperfectly enforced.

(5) That the hours during which public-houses were allowed to be open admitted of reduction without interfering with the liberty or material convenience of the people generally.

He added two more, which he said the Government in their Bill assumed as principles :—

(1) That the public had a right to be supplied with places of refreshment, sufficient in number, convenient, and respectably conducted.

(2) That existing interests, however qualified their nature, were entitled to just and fair consideration.

His concrete proposals based on the above assumptions were :—

(1) A complete revolution in the system of granting licenses.

(2) Much stricter control of licensed houses, through a new body of inspectors.

(3) Severe penalties for adulteration.

(4) Limitation of the hours of public-houses to those allowed to beer-houses.

(1) The licensing jurisdictions were to remain unaltered, except that a certificate from the magistrates must precede the grant of any license by the Excise.

Before licensing day the magistrates were to meet and decide on the number of new licenses to be issued in their

area. For this purpose they might subdivide their area into more manageable districts.

The Bill laid down a statutory proportion of licensed houses to population, viz.—in towns, 1 for 1,500 people or less, 2 up to 3,000, and 1 for every additional 1,000 people; in country districts, 1 for the first 900, and an additional 1 for every further 600 people.

If the magistrates decided to keep within these limits, their decision would be final; if they wished to grant new licenses which would bring the total above the proportion named, they must take a vote of the ratepayers, who could thus veto any excessive number.

Tenders for the new licenses, to the number finally decided on, were to be invited by advertisement, and the licenses would be allotted to the highest bidders, one person having the power to buy all or any number of them.

The final issue of each license would be withheld till the magistrates approved both the building which the purchaser proposed to use and the resident manager whom he proposed to put in charge. He could of course be his own manager in any one house, if he wished.

Once granted, each of these licenses was to be annually renewed, as of right, for a period of ten years, except when forfeited by proved misconduct.

At the end of each ten-year period, all licenses whether old or new, were to expire, and a fresh decision was to be taken as to the number to be granted, when again the ratepayers might sanction or veto an increase if the magistrates thought an increase to be desirable.

In the new allotment existing license-holders were to be given priority.

Mr. Bruce described the main feature of this far-reaching

proposal as " the substitution for the present precarious annual license an assured certificate for the term of ten years, subject to a moderate license-rent, proportioned to the gross rental."

It was to apply to both public-houses and beer-houses, the license of the latter being known in future as a " limited public-house license," but not to *bona fide* eating-houses and refreshment rooms, which the magistrates could license at their discretion to sell drink with meals only.

(2) The license fees were to be paid into the Treasury, and used for the maintenance of an entirely new body of inspectors, who would be independent of the local authorities and of the police. These inspectors would have right of entry into public-houses at all times, and would be " specially charged with the duty of seeing that no offence was committed in a public-house which was prohibited by the law."

Mr. Bruce pointed out that there were places such as Wolverhampton and Middlesborough where there was a public-house to every 60 or 70 of the population, and that many of them could not possibly be carried on at a profit except by constant infractions of the law ; efficient inspection by an independent body of inspectors would speedily eliminate the worst houses, and improve the others.

(3) Special provisions were included in the Bill to prevent adulteration. Samples of liquors sold were to be taken frequently, and analysed at Somerset House, and if they were found to contain any noxious ingredients, heavy penalties were to be inflicted on the sellers, which on the second offence would include forfeiture of the license.

(4) The closing hours on weekdays which had been in force for many years for beer-houses were to be applied to

public-houses also, viz.—midnight in London, 11 p.m. in large towns, and 10 p.m. in places of less than 10,000 inhabitants.

The Bill was withdrawn on May 8th by Mr. Gladstone, the Government definitely abandoning Mr. Bruce's new proposals for the grant of licenses, but promising to re-introduce at a later date the provisions for stricter regulation and control.

Licensing Acts were passed in both 1872 and 1874, and dealt with various details of regulation and control, but made no outstanding alteration in the system.

The most important provisions were the fixing of the weekday hours of closing, in London midnight on Saturday, and half-an-hour after midnight on other days, and in other places either 11 or 10 o'clock; the permission to grant "early closing" or "six-day" licenses when applied for by the licensees; the prohibition of the sale of spirits to children ("to any person apparently under the age of sixteen years;") and the imposition of a penalty for the sale of any intoxicating liquor to any drunken person.

In 1871 a great deal had been said by Mr. Bruce about the evils of adulteration, and in the 1872 Act heavy penalties were imposed for the sale, or exposure for sale, of adulterated liquor, and for the possession on licensed premises of deleterious ingredients without being able to account for them to the satisfaction of the court; and the First Schedule to the Act enumerated the following as "Deleterious Ingredients":—

"Cocculus indicus, chloride of sodium or common salt, copperas, opium, Indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc or lead, alum, and any extract or compound of the above ingredients."

The Act of 1874 repealed the whole of this section relating to adulteration, together with the Schedule of " deleterious ingredients."

The reasons given for the repeal were twofold ; first that the clauses had been a dead letter, no convictions having taken place under them during the two years ; and secondly, that in the meantime a general measure dealing with adulteration of foods and drinks had been passed, and that to subject the publicans to special provisions unlike any other trade was to cast on them a needless stigma.

Sir Wilfrid Lawson made a characteristic comment when the Bill was in Committee : " As to adulteration, I am not much disturbed by the Right Honourable Gentleman's intentions. I always knew that the cry of adulteration was a red herring drawn across the trail. You cannot make the stuff much more mischievous than it is itself."

At the same time some interesting figures were given by the Home Secretary, Mr. Assheton Cross, which illustrated the dual tendency to increased consumption of alcoholic liquor on the one hand, accompanied by a noticeable improvement in the character of licensed houses, and in the behaviour of those in charge of them, upon the other.

" In the police reports, the reports made by the magistrates, the number of convictions of public-houses and publicans and beerhouse-keepers, the number of forfeitures of licenses, in all these," he said, " you find a vast improvement."[1]

" Yet although the public-houses have been well conducted, and the number of beer-houses has been reduced, still the consumption of beer and spirits has largely grown. The consumption of spirits in 1873 as compared with 1869

[1] *Parliamentary Debates*, April, 1874.

has grown from 30,000,000 gallons to 39,000,000; malt from 52,000,000 to 63,000,000 bushels; wine from 14,000,000 to 18,000,000 gallons; and the convictions for drunkenness have much increased."

(It was pointed out that the increased convictions for drunkenness were partly due to the improved conduct of the houses, publicans being more careful not to be found harbouring drunken persons, who were consequently apprehended in greater numbers in the streets).

"The conclusion I arrive at," added the Home Secretary, "is that the increase of wages, and the suddenness of that increase, and the want of other sources of enjoyment for those persons who found themselves in possession of comparative wealth without being educated as to how best to spend it for their own happiness and that of their fellow-creatures, have led them to go into the only pleasure with which they are acquainted, and they have spent it in drinking.

"If you want to go to the bottom of the evil you must go further than the mere amount of drunkenness; you must improve the education of the people, and induce them to learn that there are other enjoyments than the mere sensual enjoyments of the moment, and you will do this if you make their homes more happy and comfortable. I believe that the movement to provide the labouring classes with improved dwellings will do more to promote sobriety than any measures you may pass to prevent the sale of intoxicating liquors."

Dr. Shadwell cites the three Acts of 1869, 1872, and 1874, as instances of "successful legislation," and sums up their general results as follows:—

"The Act of 1869 was directed against the multiplica-

tion and maintenance of disorderly beer-houses, and is an excellent example of the legitimate and successful application of the law."

"The most important provisions of the Acts of 1872 and 1874 were directly aimed at further purifying the liquor traffic of its disorderly elements. The drunkard himself, and the publican who encouraged him, were both more severely dealt with than before; the powers of the police were enlarged, and the hours of sale once more regulated."

"The Act of 1872 clearly went as far as was safe at the time in dealing with the traffic, for the severity of the penalties for some offences interfered with administration through the reluctance of magistrates to enforce them, and they were consequently mitigated in 1874."[1]

During the same period a Select Committee of the House of Commons had made some careful enquiries into plans for dealing with Habitual Drunkards, and presented their Report in June, 1872.

They recommended the provision of "Sanatoria" or Reformatories, which should be of two Classes:—

A.—Self-supporting, and

B.—Maintained at Public expense.

Admission to these might be Voluntary, or by Committal, but in either case, when a patient was once admitted, there should be power of detention for a reasonable period.

The Chairman of the Committee, Mr. Donald Dalrymple, had just returned from America, where he had personally visited most of the "inebriate asylums" in existence at the time, and had investigated their management; and

[1] *Drink, Temperance, and Legislation*, p. 166.

this recommendation was avowedly based on American experience.

The Committee recognised that alcoholism was a disease requiring special treatment, and that neither lunatic asylums nor general hospitals were suitable places in which it could receive the best attention.

Medical men have always desired some power of committal for a long enough space of time to enable them to build up the general powers of an inebriate's resistance to the craving which periodically besets him. Twenty years later a well-known physician, who was also a magistrate, wrote to a friend about a wealthy lady patient: "If she were a thief I could imprison her, if she were a lunatic I could asylum her, but because she is a drunkard I have to wait time after time till she makes herself so ill that I am called in to give her ineffectual, because impermanent, relief."

Another recommendation of the Committee was for the keeping of a "Drunkards' Register," and the recording therein of all fines and convictions for drunkenness.

After three convictions an offender was to find sureties for good conduct and sobriety, and on any further conviction was to be registered as an "Habitual Drunkard," and committed for a period to a Sanatorium.

The Committee made out a good case for the establishment of special institutions to deal with persons who really needed medical care and treatment for their alcoholism, but laid themselves open to criticism by recommending unnecessarily severe penalties for first offenders, whom they called "initial or casual" drunkards, in the hope of preventing the formation of drunken habits

The *Times* in a leading article of June 27th ignored

altogether the useful parts of the Report, and contented themselves with pouring merciless ridicule on the Committee's findings as a whole

One paragraph anticipated what has lately again become a burning question, the difficulty of defining drunkenness. "For so elaborate a document we should venture to look on the Report as deficient in a rather important particular. It contains no definition of the crime to be punished. What is Drunkenness? And when is a man to be considered drunk? Replies have been often given; a man lying on his back and feeling upwards for the ground, or trying to light his pipe at the pump, or hanging on to the railings of a square till his own house comes round to him, are specimens of the solutions offered with more or less acuteness. Some would take the moment when he passionately declares that 'he was never more sober in his life,' as the crisis of collapse."

The Committee clearly shared the opinion which found expression in the Act of the same year, that there was a serious prevalence of adulteration. They recommended "watchful inspection over the purity of the article sold," and in their draft report (Section 8) occurs the following interesting statement:—

"The moderate use of alcoholic liquors is unattended by any bad effects, while there is much to prove that excess in ardent spirits is far more deleterious than similar excess in wine or beer. There are also strong reasons for believing that some considerable amount of helpless drunkenness and frenzied intoxication is due to adulteration, or to the use of new spirits containing substances of the nature of others."

Habitual drunkards are of two main classes: those

who inherit or have otherwise acquired so strong a desire for alcoholic drinks that it needs an altogether exceptional power of self-control to prevent their drinking to excess; and those who make no attempt to exercise self-control, but get drunk wilfully. The first class benefit by special treatment under medical supervision, if the course be sufficiently prolonged; for the second class, to quote Sir H. Rider Haggard's memorandum to the 1908 Committee, the only plan is "to make things as uncomfortable as possible."

Provisions for the apprehension and punishment of persons found drunk and incapable, or drunk and disorderly, in public places or on licensed premises, occur in many Acts, notably in that of 1872; but the first legislative attempt to make any provision for the cure of inebriates was the Habitual Drunkards' Act of 1879; and this only gave permission for the establishment of Retreats which they might enter voluntarily; it contained no compulsory features, except the authority to detain a voluntary inmate, when once admitted, for the full period of time to which he had agreed.

The institutions established under this Act could only afford to admit persons who paid for their maintenance; no establishments were opened for the treatment of poor drunkards; and in nearly all cases the well-to-do inebriate refused to "sign away his liberty" until very strong pressure was put on him by relatives and friends, i.e., until his condition was so far advanced as to be practically incurable.

A second Committee reported in 1892, and again strongly urged that magistrates should be authorised to commit inebriates to retreats or to reformatory institutions.

The Habitual Drunkards' Act of 1898 for the first time legalised such power; but even then only provided for the detention in reformatories of the worst kind of drunkards, those who "committed crime as the result of their habits of drunkenness," or who "were frequently charged in police courts for drunken and disorderly conduct." There were still no legal powers of compulsory detention for non-criminal inebriates.

The 1898 Act was not as widely used as was expected, partly because of the wording of its definition of "habitual drunkard," which was found to exclude large classes of those whom it was intended to cover, and still more because of the utter insufficiency of suitable accommodation for those who were committed.

A third Committee which sat in 1908 emphatically recommended that curative and reformatory institutions should be "provided, maintained, and managed, by the State."

There would seem to be considerable ground for the contention that if all habitual drunkards could be classified, and dealt with compulsorily under whichever of the two methods was most suited to the case of each, the curative method, or that which is merely penal and deterrent, a very large proportion of the difficulties attendant on the sale of intoxicating drinks to those who can use them without abusing them would be eliminated, and the whole licensing question would be simplified.

CHAPTER VI

The Religious Wave
1875–1880

During the early 'seventies the religious bodies of the country gave more careful attention to the subject of intemperance than they had previously done officially, and the convocations of Canterbury and York carried out independent enquiries spread over some years, and drew up Reports.

The Canterbury Report included an immense amount of testimony from Clergy, Coroners, Governors of Prisons and Workhouses, Superintendents of Asylums and Chief Constables and Superintendents of Police, which was collated under nearly forty different headings.

Some dealt with contributory causes of intemperance, some with its evil effects, others with suggested remedies. Among them were, " Age at which Intemperance begins," " Paying wages in public-houses " (this was especially the case in colliery districts), " Part payment of wages in drink," (chiefly in the agricultural districts), " Meeting of benefit societies and clubs in public-houses," " Statute and Mop Fairs," " The relation of intemperance to Crime, to Pauperism, and to Disease, Lunacy, and the Sacrifice of Human Life " ; while in the later section were " Asylums for inebriates," " Cottage Allotments, Coffee-rooms, and Penny Readings," " Improved Dwellings," " Education

generally, and special teaching on the laws of health," " Training of women and girls in household duties," (especially cooking), " Sunday Closing and earlier closing on weekdays," " Reduction in the number of public-houses," and " The appointment of Special Inspectors."

The Canterbury Committee divided its recommendations into Non-legislative and Legislative Remedies.

Among the former it emphasised particularly the need for Improved Dwellings, " implying an abundant supply of light, ventilation, and water, it being well-known that a craving for intoxicating liquors is created and increased by the closeness, damp, and discomforts inseparable from the miserable and crowded apartments in which many working men are lodged " ; and also the need for training in the principles of health and of social and domestic economy.

In this latter connection it quoted " the testimony of one who has had ample means of judging, that not one female in twenty, of our humbler classes, is instructed in the ordinary duties of either a wife or a mother."

Governors of workhouses and many other authorities supported this, and one parish priest wrote bluntly, " My own belief is that men go to the public-house more to get away from their wives than from any other cause. Their homes are fearfully uncomfortable, and the wives are of very inferior quality, almost worthless as managers, and continually in debt."

The " Legislative Remedies " enumerated in the Canterbury Report were :—

The Repeal of the Beer-house Act.

Sunday Closing.

Earlier Closing on weekdays, especially on Saturdays.

A great reduction in the number of public-houses.

One Licensing Authority, with a uniform plan of administration.

Rigid enforcement of penalties, whether incurred by drunkards or by publicans.

Prohibition of the holding of Music, Dancing, and Billiard licenses in conjunction with Liquor licenses.

Prohibition of the use of public-houses as Committee Rooms at elections, and their closing on Nomination and Election days.

Appointment of special inspectors for public-houses, and for the detection of adulteration.

Repeal of all duties on tea, coffee, chocolate, and sugar, and

Some means of Popular Restraint on the issue of licenses.

On the strength of the Reports of the two Convocation Committees, more than 10,000 clergy petitioned the Bishops to bring the matter before Parliament, with a view to further legislation.

In 1876, on the motion of Archbishop Tait, a Select Committee was appointed by the House of Lords, "to enquire into the prevalence of habits of intemperance and into the manner into which those habits have been affected by recent legislation and by other causes," the following Peers being appointed to be members of the Committee:

The Archbishops of Canterbury and York.
The Duke of Westminster (Chairman).
The Earls of Shaftesbury,
Belmore,
Onslow,
Morley,
Dudley,
Kimberley.

Viscounts	Gordon, Hutchinson (Earl of Donoughmore).
The Bishops of	Peterborough, Carlisle, Exeter.
Lords	Hartismere (Lord Henniker), Penrhyn, Aberdare, Cottesloe.

In 1878 the Earl of Minto was added when the Earl of Shaftesbury was discharged from attendance.

The Archbishop made his appeal for a Committee "in order that the allegations of a growing prevalence of intemperance might be tested, as to whether the evil did exist to the extent alleged, and if so what were the causes, and what were most likely to be effective remedies."

He admitted in his speech that the subject was one about which there had been exaggerations, and he paid a high tribute to the character of the average English working-man, both the agricultural labourer and the urban mechanic.

He also said he was aware that "many who had embarked their capital as brewers or distillers felt very sensitive as to the way in which they were spoken of by some of those who had interested themselves in promoting the temperance movement; and certainly from his personal acquaintance with gentlemen engaged in this trade, he thought there was great exaggeration and an undue tendency to regard them as responsible for evils which they were as anxious as ourselves to prevent."

The debate which followed was chiefly remarkable for a vehement denunciation by Bishop Magee, of Peterborough, of the Permissive or Local Option Bill promoted year after

year by Sir Wilfrid Lawson and the United Kingdom Alliance.

He described it as "utterly immoral, unconstitutional and mischievous"; immoral, because while it alleged that the liquor traffic was poisonous, murderous, and destructive to society, it yet agreed that if two-thirds of the people wanted it they were to have it; unconstitutional, because it substituted government by plebiscite for government by representation; and mischievous, because it would provoke secret and illicit intemperance, and produce incessant quarrelling in every place.

He added that "it was to the elevation of the sanitary, social, religious, and moral condition of the poor, far more than to laws respecting the licensing of public-houses, that we must look for the suppression of intemperance."

The Select Committee was appointed, and sat during 1877 and 1878, presenting its Report in March, 1879.

The final recommendations of the Lords' Committee were prefaced in their Report by certain deductions from the evidence they had heard regarding prevalent conditions. In Section 27, for instance, it is stated that:

"The Committee have arrived at the following conclusions:—

1. Recent legislation has had a beneficial effect by producing good order in the streets, by abolishing the worst class of beer houses, and by improving the character of licensed houses generally. It is not however proved that it has diminished the amount of drunkenness.
2. Drunkenness has not increased in the rural districts.
3. In the large towns and mining districts in the North of England and the South of Scotland, after making allowance for the action of the police, the changes in the law and its administration, and other local and

general causes, statistics show that intemperance increased considerably during the five or six years of prosperity which followed the year 1868.

There is however no evidence to show that the country is in this repsect in a worse condition than it was thirty years ago.

The increase is mainly due to the rapid rise of wages, and the greater amount of leisure enjoyed by the working classes, and in a lesser degree perhaps to the over-crowded state of their dwellings.

The Committee have failed to discover any general cause to account for the great variations in the statistics of large towns, nor does the evidence show that any direct relation exists between the number of licensed houses and the amount of intemperance.

4. In some parts of the country drunkenness has increased among women.

As a rule the higher class of artisans are becoming more sober, and the apprehensions for drunkenness are becoming more and more confined to the lowest grades of the community."

Certain statistics quoted by the Committee showed that the Northern towns and counties had fewer public-houses, but yet were more drunken than the Southern.

Also that in large towns where the public-houses had decreased in number they had increased in size, and in the amount of accommodation they afforded.

One of the most interesting witnesses who came before the Committee was Mr. Joseph Chamberlain, M.P., who gave evidence both with regard to Birmingham, and to his proposed adaptation of the Scandinavian system to this country. At that time he was very fervent in the creed of management by municipal authority.

Two assertions of his in particular are worth quoting;

one, in regard to the variations between different towns, "My conclusion is that there is no law whatever; you can see a closer relationship between climate and drunkenness than between any other two facts; the rate of wages has something to do with it, and the character of the trade; and, more than all, the comparative stringency with which the law is carried out"; and the other on the inconclusiveness of police statistics, "If to-morrow it were necessary for any purpose I could undertake to have the statistics for Birmingham made ten times as bad as they were before; just one turn of the screw would bring in ten times the number."

The final recommendations of the Lords' Committee, as summarised in their Report, are as follows:[1]

1. That legislative facilities should be afforded for the local adoption of the Gothenburg and of Mr. Chamberlain's schemes, or of some modification of them.
2. That renewals of beer houses, licensed before 1869, should be placed on the same footing as those of public houses.
3. That in cases of decisions affecting the renewal of licences, in boroughs having Quarter Sessions, the appeal should be to the Recorder, where there is such a functionary, and not as at present, to the County Justices.
4. That it should be expressly enacted that Justices should be authorised to refuse transfers on the same grounds of misconduct as those on which renewals of licenses are now refused.
5. That no removal of a license from one house to another should be sanctioned without giving the inhabitants of the locality to which the removal is proposed, the opportunity of stating their objections.
6. That no structural alterations of houses licensed for drinking on the premises having for their object increased

[1] *House of Lords' Committee, 1876-9, Recommendations.*

facilities for drinking, should be made without the previous approval of the Licensing Authority.

7. That a considerable increase should be made in the License Duties.

8. That on week-days licensed houses in England outside the metropolis should not be open before 7 a.m. and that they should be closed one hour earlier than at present in the evening.

9. That licensed houses in Scotland and Ireland should be closed one hour earlier than at present on weekdays.

10. That on Sundays licensed houses in the metropolis should be open from 1 to 3 p.m. for consumption off the premises only, and for consumption on the premises from 7 to 11 p.m.

That in other places in England they should be open from 12.30 to 2.30 for consumption off the premises, and for consumption on the premises from 7 to 10 p.m. in populous places, and from 7 to 9 p.m. in other places.

11. That it should be made clear that even if a person professing to be a bona-fide traveller has, on the previous night, lodged outside the three-mile limit, as defined by the Act, it still rests with the magistrate before whom his case may be brought, to determine whether he is a bona-fide traveller or not.

12. That Justices should have discretionary power of licensing music halls and dancing saloons in the country, as at present in the metropolis, whether connected with public houses or not, and that all such places should be subject to supervision by the police.

13. That certain serious offences, such as those contained in the first category of the Act of 1872, should entail the compulsory endorsement of the license, and that the treating of constables should be added to the list of offences included in the second category.

14. That any person "having or keeping for sale" any intoxicating liquor without a license, should be liable to penalties of the same description and amount as those

under the existing law for "selling or exposing for sale" and that the powers of apprehension upon warrant in cases of illicit drinking, as in the Glasgow local Act, should be generally applied.

15. That the entering of liquor under some other name upon the bill of a shopkeeper holding a license to sell off the premises, should be an offence against the license punishable by immediate forfeiture.
16. That a list of convictions, kept by the Justices' clerks, should be legal evidence of previous convictions.
17. That all occasional licenses to sell elsewhere than on licensed premises should be granted by two Justices at petty sessions assembled.
18. In Scotland, the Committee recommend that the amount of fines and the terms of imprisonment should be made to follow those of the English Act, and be, like them, progressive.

    That severer penalties should be imposed, as in England, on persons drunk in charge of horses, carriages, etc., and that publicans should be made liable to the same penalties for harbouring thieves, prostitutes, etc., as in England, under the Prevention of Crimes Act.
19. That the recommendations of the Royal Commission of 1877 for Scotland on Grocers' licenses should be adopted for Ireland, as far as they may be applicable, and especially that spirits should be sold in closed vessels only for minimum quantities.

    They also recommend that a qualification of value should be required for a public house license.
20. That in Ireland and in Scotland as at present in England no spirits should be supplied to children under sixteen years of age.

Most of these recommendations deal with specific points in which it seemed the law could be amended, but the first one refers to plans for changing the licensing system altogether.

Section 28 of the Report says, "The attention of the Committee was directed to various schemes for the alteration of the Licensing Law.

These schemes are five in number.

(*a*) Free Licensing.
(*b*) The Permissive Prohibitory Liquor Bill.
(*c*) The Gothenburg System.
(*d*) Mr. Chamberlain's Scheme.
(*e*) Licensing Boards."

The first of these is fully discussed in Sections 29–30, which conclude as follows :—

Free Licensing.—"The Free Trade experiment tried under the Beer Acts is universally admitted to have failed, and there appears to be no reason for believing that any safeguards can be devised which would secure a better result

"The Committee considering also that the system is altogether opposed to the spirit of the recent policy of restriction, which appears to meet with the general approval of the country, are unable to recommend its adoption."

The Permissive (Local Option) Bill.—Sections 31 and 32 condemn still more emphatically the Permissive Prohibitory, or Local Option plan.

As the underlying principle of Sir Wilfrid Lawson's Bill is still the basis of important proposals put forward in the name of Temperance and Licensing Reform, the reasoned report on the proposal presented by the Lords' Committee is as apposite at the present time as it was sixty years ago.

"As regards the principle of this measure, it seems neither consistent nor reasonable that the Legislature should forbid the sale of any article of diet, the manufacture, importation, and possession of which it leaves perfectly free.

"If it be desirable to attempt to prevent by law all common use of alcoholic liquors, any such attempt should be made directly, and should be aimed, if it is to be effectual, against the manufacture, importation, and possession, as well as against the common sale, of all such liquors.

"If their use is not so dangerous as to justify such prohibition, there certainly seems to be neither reason nor justice in making it an offence to sell that which it is no offence to manufacture, possess, or use.

"The only justification for singling out the one act of sale from all those by which the liquor at last reaches the consumer, would be that it is necessarily or even generally accompanied by such evils as to demand and justify its prohibition for the sake of the public welfare.

"This has not been shown to be the case. There can be no doubt that the great majority of those who purchase and consume liquor are not guilty of intoxication, nor are the places where it is sold by any means so universally the scenes of drunkenness and disorder as to call for their suppression on that ground alone.

"It does not seem therefore either just or expedient that the purchase and moderate use of liquor by the majority of persons should be prevented because there are some who abuse it to their own hurt and that of others.

"The mode by which it is proposed to effect this prevention, namely by the vote of the rate-payers, seems also to be open to serious objection.

"For, if the common sale of alcoholic liquors be a thing so universally pernicious, and so incapable of regulation, as the advocates of the Permissive Bill maintain that it is, then it should be universally prohibited by a general act of the Legislature; nor should it be tolerated in any

particular locality merely because a certain number of the rate-payers desire it.

"But on the other hand, if it be not so essentially evil as to justify universal prohibition, then to make its prevention depend upon a vote of the rate-payers, is to establish the principle that the rate-payers in a given district have the right to forbid the pursuit of any trade or calling of which they disapprove, even though such trade or calling be, apart from this local prohibition, a perfectly lawful one, carried on in other places with the full sanction of the Legislature.

"Such a principle once adopted is capable of large and very dangerous extension in practice. It might, if pushed to its full limits, be applied on similar grounds to the prohibition of unpopular places of religious or political resort, as well as to obnoxious occupations.

"Nor is the granting of such a power to the rate-payers justified by the argument advanced in its favour, that it would only extend to the people in a larger degree the power already possessed by the magistrates, who may now refuse to grant certain licenses in their respective districts.

"For, apart from the question whether powers which may safely be entrusted to magistrates may with equal safety be entrusted to the people at large, it is certain that the power of granting or withholding licenses has been given to the magistrates, not for the suppression, but for the regulation, of the liquor traffic, and that any attempt to use such power not for the regulation, but for the suppression, of the traffic, would be inconsistent with the principles hitherto observed by the Legislature.

"While for these reasons the measure seems to the Com-

mittee unsound in principle, it would, they are persuaded, prove in practice either inoperative or mischievous.

"It would prove inoperative in all those cases where the district in which the measure had been adopted was conterminous with one in which it had not been adopted, and where the mere act of crossing a street might enable those who desired to do so to escape completely from its restraints.

"It would most probably prove mischievous where such escape was impossible or difficult, by leading to illicit or secret sale and disposal of liquor, and certainly by the incessant agitation and strife which would in most cases result from the absolutely indispensable provision that the adoption of this Act should be subject to revision, from time to time, by further votes of the rate-payers.

"For these reasons the Committee feel that they cannot recommend the Permissive Bill as a measure either of justice or sound policy, or as likely ultimately to promote the cause of temperance to which its advocates are so earnestly and laudably devoted."

Licensing Boards —The fifth scheme on which evidence was tendered, had also been embodied in a Bill, introduced by Mr. Cowan in 1877, and rejected on its second reading. Its effect would have been to intrust to a local board, specially elected for the purpose by the ratepayers, the duty of granting and renewing licenses, substituting this board for the Justices, and abrogating the confirming authority created by the Act of 1872.

The Committee reported that "So far as the issue of fresh licenses is concerned, there does not appear any reason to suppose that such a Board would discharge their duties more efficiently than the Justices, controlled

as these have been since the Act of 1872 by the Confirming Committee."

"There is also, they said, reason to fear that the members of the proposed local boards would be more accessible to local influence than the justices, and their decisions less impartial They would be constantly changed, and every change might effect their uniformity of action; while the elections would be the cause of continual strife, in which the publicans would exert themselves, and probably with occasional success, to have their interests strongly represented.

"The Committee are not prepared to recommend the substitution of such electoral local boards for the present licensing authorities.

"The suggestion however that in the event of the concentration of various public duties in a County Board, or a local Board with an extensive area, the licensing of public houses should be intrusted to them, would be well worthy of consideration, whenever such a Board shall have been formed."

Gothenburg and Chamberlain Plans.—The two remaining plans on which the Committee heard evidence, and for the experimental adoption of which they recommend that facilities should be given, were the Gothenburg system and the Chamberlain scheme.

These had in common the principle of disinterested management; but whereas in Gothenburg the entire traffic in spirits had been transferred to a limited liability company, or Bolag, who contracted with the civil authority to conduct the business in the interest of temperance and morality, and to pay to the town treasury the whole profits beyond the ordinary rate of interest on the paid-up

capital, Mr Chamberlain proposed to work directly by the municipalities, and to empower town councils to acquire the freehold of all licensed premises in their respective districts, and the existing interests of present license-holders, and to carry on the trade themselves for the convenience and on behalf of the inhabitants, but so that no individual should have any pecuniary interest in, or derive any profit from, the sale of intoxicating liquors.

The town councils, in Mr. Chamberlain's scheme, were to have power to borrow for the purpose on the security of the rates, and to carry all profits after providing for interest and sinking fund, to the credit of the education rate and poor rate in equal proportions.

The Gothenburg system in Sweden only applied to spirits, not to beer; and its adoption in that country had been facilitated by the fact that the trade had previously been free, and there were therefore no vested interests to deal with.

Mr. Chamberlain believed that "greater security for the conduct of the business would be afforded if it were managed by a really representative authority, subject to public control and criticism, than if it were in the hands of a semi-private trust, even though that trust were originally established on purely philanthropic grounds."

He added that "he would not have the least objection in any Bill to a provision enabling corporations to transfer the matter to a company formed on the basis of the Gothenburg Company," nor to a clause restricting corporations so that they should not reduce the number of houses below a certain proportion to the population.

The Committee (Section 35 of their Report) summed up the advantages expected from the two schemes as :—

1. The control of the local authority over the issue of licenses.
2. A great diminution in the number of public houses, and an improvement in their convenience, healthiness, and management.
3. By the provisos that no individual should derive any profit from the sale of intoxicating drinks, and that the managers should keep a supply of food, tea, coffee, and other refreshments, it is hoped that the present drinking houses might gradually assume the character of eating houses and workmen's clubs—places of harmless resort.
4. That sound and seasoned spirits, and light wholesome beer would be substituted for the raw, deleterious spirits, and heavy unwholesome beer, strongly charged with alcohol, such as are now supplied.
5. The elimination of the influence of the publicans from civic elections.

In Section 36 they say :—

"Many objections common to both schemes, and some peculiar to each, have been urged against them."

1. The objection felt by the extreme advocates of Temperance to giving to Town Councils the conduct of a liquor traffic which they believe to be demoralising, and therefore wrong in itself.
2. The danger that the temptation of profit might induce the town council unduly to increase the number and attractions of the drinking places.
3. The enormous preliminary expense necessarily attendant upon the acquisition of such a property, the absence of which expense not only facilitated the experiment in Sweden, but insured its profitable results.
4. The unfitness of Town Councils to conduct so vast a business with economy and care.
5. As regards the Gothenburg system, the improbability that any company could be formed which would under-

> take to raise the necessary capital, and supply the administrative skill requisite to the conduct of such an enterprise in our great populous towns, on purely philanthropic principles, and without the incentive of gain.

"We do not wish to undervalue the force of these objections, but if the risks are considerable, so are the expected advantages.

"And when great communities, deeply sensible of the miseries caused by intemperance, are willing at their own cost and hazard to grapple with the difficulty and undertake their own purification, it would seem hard that the Legislature should refuse to create for them the necessary machinery, or to intrust them with the necessary powers."

The remainder of the Recommendations dealt with points of detail.

The Committee heard many general complaints, but "obtained very little direct evidence" of the abuse of "Grocers' licenses," and concluded that "there have been no sufficient grounds shown for specially connecting intemperance with the retail of spirits at shops as contrasted with their retail in public houses" (Section 39).

Some witnesses were anxious to abolish "transfers" of licenses, and to have all applications for transfers treated as applications for new licenses. The Committee thought it "inexpedient to alter the present mode of transferring licenses, except so far as necessary to prevent their being transferred to persons of proved misconduct." (Section 42).

The recommendation that previous approval must be obtained before making structural alterations or enlargements to licensed premises, was due to evidence that a material change of the character of the house was often

effected in this way, " public houses being converted into vaults or gin palaces."

In Scotland any person wishing to extend or alter his premises, or even to open a new door, had to make a fresh application as if he were applying for a license.

The Committee considered that " the area of houses licensed for drinking on the premises should be more accurately defined than at present in the registers kept by the Justices' clerk, and that coloured plans should be put in, such as are now generally given in the margin of deeds and leases " (Section 44).

An increase in the duty on Excise licenses was recommended rather in the interest of the Exchequer, than from any belief in high license duties as a method of promoting temperance.

One effect of the 1869 and 1872 legislation had been to restrict the number of licensed houses, " and largely to raise the value of such property," " and it would seem but just that the public should receive a greater portion than hitherto of the profits of a monopoly thus artificially created." (Section 45).

With regard to hours of sale, the Committee reported that " the evidence gives reasonable hope that public opinion would accept some further curtailment of open hours, and that without any practical inconvenience intemperance might thus be considerably diminished." (Section 49).

Of the Sunday trade they said " believing that public opinion in England is not yet ripe for total closing on Sundays, although it seems to be advancing in that direction, they cannot go so far as to recommend its adoption " (Section 50).

The " bona-fide traveller " was described in the evidence as " the greatest nuisance that ever the police officers had to do with ; they had no control over the large number of mala-fide travellers ; the restriction was a simple farce."

The Committee, however, did no more than point out that being three miles from home did not *ipso facto* make a man a traveller, though it was an essential condition of his being so adjudged. The decision lay in each case with the magistrate before whom he was brought. (Section 51).

They refused to recommend that music and dancing should be prohibited in public houses, though many witnesses desired such prohibition, but on the other hand quoted a saying by the Manchester Justices to the effect that " they had no desire to discourage such entertainments, which might substitute rational enjoyment for intemperate indulgence." They recommended that the granting of music and dancing licenses should be left to the discretion of the magistrates. (Section 52)

Looking at the Report as a whole, the Lords' Committee recognised that legislation to be effective must have the support of public opinion at its back, and they consistently refrained from giving their approval to extreme proposals. While they were willing that the way should be smoothed for voluntary efforts to bring about improved control, they refused any countenance to prohibition.

CHAPTER VII

THE POLITICAL WAVE
1880–1895

THE Lords' Committee in 1879 had reported that "public opinion in England did not appear to be yet ripe for Total Closing on Sundays, though it seemed to them to be advancing in that direction."

In Scotland Sunday Closing had been in force since 1853, in Ireland since 1878, and in Wales since 1881, and there was a considerable body of opinion in favour of its enforcement in England.

On the other hand there was widespread and growing belief that where compulsory Sunday Closing was in force, it was producing more evils than it was preventing.

In March, 1889, the attention of the Home Secretary was called in Parliament to certain remarks made by Mr. Justice Grantham in a recent charge to the Grand Jury of Glamorganshire.

"Wales," he said, "had been made an experimental station for the purpose of testing the question of Sunday closing, and he was glad that this was so, as it enabled the question to be thrashed out in a practical way. It justified the opinion expressed by many that the Sunday Closing Act would not be a success."

"Still speaking of Wales," he added, "there is no doubt about it at all that there is less drunkenness where there is more drink than there is where there is more teetotallism."

As a result of the questions arising out of this pronouncement the Government appointed a Royal Commission " to enquire into the working of the Sunday Closing (Wales) Act of 1881.

In the same month a Bill for enforcing Sunday Closing in England, which had come to be regarded as a hardy annual, obtained for the first time a majority in favour of its Second Reading.

The Times, in a leading article of March 28th, described this Bill as " an invertebrate measure, supported by flabby arguments, based upon a narrow, vulgar, and retrograde theory of ethics, and condemned by our experience of analogous enactments " ; and it went on to say, " to hedge people round with petty restrictions instead of teaching them nobility of conduct and a worthy use of liberty, is the perennial resource of shallow and incompetent reformers. A small minority occasionally injure themselves with bad liquor on Sunday, and these reformers can think of nothing better than to forbid the entire community to drink on Sunday at all. To punish the swindlers who supply poisonous liquor, to provide alternative resorts to the public-house, and to give men better employments and amusements for their leisure than idle talk in front of a bar, would be worthy objects for paternal government. But these things are too hard and not sufficiently sensational for the mechanical moralists who provide the grandmotherly legislation of the present day."

With regard to the Scottish Sunday Closing Act *The Times* said, in the same article :—

" A great deal has been made of Scotch legislation on this subject. But the Forbes Mackenzie Act had its origin, not in love of temperance, but in exaggerated Sabbatarian-

ism. Public-houses were closed on Sunday, not because they sold drink, but because all enjoyment on Sunday was then reckoned wicked. The Scotch people have accommodated themselves to a law which it is doubtful whether they would accept in the great towns if it had to be passed to-day; and whatever statistics may be produced, the streets of Glasgow on a Sunday night do not compare favourably with those of London"

The Commission presented their Report in 1890, and after enumerating the various classes of witnesses who came before them made this preliminary statement:

"The value of this large mass of evidence is seriously affected by the scarcity of witnesses prepared to approach the question in a judicial manner, and not rather as advocates on the one side or the other.

"We therefore propose to attach more weight to the reasons given in support of the opinions expressed than to the number of those expressing them."

Reviewing the evidence that came before them, the Commission concluded that "throughout Wales as a whole the general opinion and feeling preponderate largely in favour of the policy of the Act."

They found almost universal testimony that Sunday Closing had resulted in "improved order in the streets," and a considerable body of opinion among employers of labour that it had produced "increased regularity at work during the early days of the week;" but they considered that the general improvement in the condition of the people was by no means so wholly due to the Act as some witnesses claimed, but was part of a "progressive improvement going on for many years," and "not confined to Wales."

The main objections to the Act of which they took special note were :—

(1) Disrespect for law engendered in the minds of those who have recourse to various means of evading restrictions which they dislike, in the disregard of which they see no moral wrong.
(2) Great increase in the abuse of the " bona fide traveller " clause, directly resulting from the Act ; the growth of drinking clubs, especially in the mining districts of South Wales, and of shebeens ; and the retailing of beer by wholesale dealers.
(3) Increase of private drinking.

In view of the stories, since Prohibition was introduced into the United States, about the usefulness of the " hip-pocket," it may be noted that several police witnesses before the Commission said that one result of the Sunday Closing Act in Wales had been the manufacture of a specially shaped tin vessel, made to fit closely to the body under the clothes, of which a number were kept in stock by the publicans, stacked under the counter during the week, and used for surreptitious sale to customers on Sunday. The carrying of them was difficult to detect, but confiscated specimens were shown. They were known by the name of " belly cans."

The Commission prefaced their actual recommendations by saying :—

" We cannot conceal from ourselves that the task of answering the question, ' Has the Act increased or diminished drunkenness generally throughout Wales ? ' is one of the greatest difficulty."

" In those parts of Wales where the principle of the Act is undoubtedly in harmony with the wishes and feelings

of the vast majority of the population, it was least needed as a means of promoting sobriety; whereas in those parts in which it has not been so generally accepted, and where it has been constantly evaded or defied by certain classes of the population, we cannot, in the face of the evidence before us, say that its effect has been salutary in every respect."

"We have indicated our opinion that the provision of places open on Sunday for the enjoyment of social intercourse and innocent recreation, not incompatible with the due attention to the religious duties of the day, would prove in practice as strong an inducement to the formation of temperate habits as the mere closing of the public-houses without the provision of any such counter-attractions."

The Commission refused to recommend the Repeal of the Act, as desired by some witnesses, or the complete closing of licensed houses for all purposes, even to travellers, as desired by others; but they made recommendations with regard to various methods of evasion.

(1) On travellers. "We suggest that no person shall be deemed to be within the exception relating to travellers, unless he proves that he was actually engaged in travelling for some purpose other than that of obtaining intoxicating liquor, and that he has not remained on the licensed premises longer than was reasonably required for the transaction of the necessary business, or for the purpose of necessary rest, refreshment, or shelter from the weather."

They also proposed the compulsory keeping of a "Travellers' Book," in which the name and address of every person served on Sunday should be entered, with the date.

(2) With regard to Clubs. "We recommend that every club in which intoxicating liquors are sold or supplied to its

members, should be registered with a copy of its rules with the local authority of the district, such register and rules to be open to the inspection of the police," and "that associations existing only for the purpose of supplying intoxicating drinks to the members, or only colourably for some other purpose, should be declared absolutely illegal."

(3) With regard to "shebeens" the Commission endorsed the recommendations of the Lords' Committee on Intemperance already quoted, both as to penalties for "having or keeping for sale" without a license, and as to the "adoption of the powers of entry and arrest contained in the local Act in force in Glasgow."

(4) To prevent the abuse of the wholesale trade in beer, they recommend :—

That all deliveries of beer on Sunday, except on board foreign-bound ships ready for sea, should be prohibited.

That all deliveries of beer on weekdays before certain hours in the morning, or after certain hours in the evening, should also be prohibited.

That the premises on which the trade is to be carried on should be registered with the Local as well as with the Inland Revenue Authorities, and should not be of less rateable value than £15 annually.

That no such license should be granted to anyone who is disqualified from holding a Retail "Off-license," or who does not produce a certificate from the local licensing authority.

That the police should have the same powers of entry on the premises of a wholesale as of a retail beer dealer; and that the finding of any vessel of beer capable of containing less than 4½ gallons, or capable of containing more but partly empty, should be *prima facie* evidence of illegal sale by retail.

About the same time that the Royal Commission was enquiring into the effect of the Sunday Closing Act in Wales,

several abortive attempts were made to amend the licensing laws in England.

The Lords' Committee in 1879 had rejected a proposal for the election of local Boards to deal with licensing alone, but had also said that "if at any time various public duties should come to be concentrated in a County Board, or some other Board with an extensive area, it might be advisable to entrust to such a Board the licensing of public-houses."

In the Local Government Bill of 1888, which created our present County Councils, Mr. Ritchie proposed to give effect to this suggestion.

As originally introduced by him this Bill proposed to transfer to the new County Councils "all the existing administrative powers of the Justices in respect of County rates and financial business, County bridges and buildings, lunatic asylums," and many other matters, including "the granting licenses for the sale of intoxicating liquors."

On this last point Mr. Ritchie said :—

"The proposal we make is to transfer licensing, with the other administrative functions of Justices, to the new representative body.

We think that if an authority is elected for all other purposes, that authority ought also to be entrusted with licensing."

"In order that local interests may have opportunity of making themselves known, we propose that the County Councils shall divide their area into licensing divisions, and shall form a licensing committee for each division, to consist of the members elected to the County Council for the division, together with an added proportion of selected members from the Council.

"In order to secure that the licensing area be sufficiently

large, we provide that no licensing committee shall have on it less than six elected members."

The powers to be conferred under the Bill on these licensing committees of the County Council were, in the main, as follows:

1. To refuse renewal of any license, when they wished to reduce the number of licensed houses.
2. To close public-houses on Sunday, Good Friday, or Christmas Day, either altogether, or for part of the day.
3. To alter the hours of closing on week-nights.
4. To increase the license duty of publicans by not more than 20 per cent.

One clause in this part of the Bill provoked the persistent and bitter opposition of the so-called "Temperance" party.

It provided that if the Committee refused the renewal of a license for any other cause than the fault of the holder, the latter would be entitled to compensation.

Mr. Ritchie said:

"We are not prepared to confiscate the property of those who, under the sanction of the existing law, have embarked their capital in undertakings of this character.

"We therefore propose that compensation shall be paid to those whose licenses are not renewed; and that the question of the measure of the compensation shall be referred to an arbitrator, to be chosen by the parties interested, who shall consider the value of the house with the license, and the value of the house without the license, at the time of the passing of the Bill.

"It will be for the several parties interested in the licensed house to divide the compensation between them,

and if they cannot agree the matter may be referred to the decision of a County Court Judge.

"We propose that the charge for the payment of compensation shall be thrown primarily on the ratepayers of the licensing district in which the license has been refused, although power is given to the County Councils in special cases to spread the compensation over the whole county, or even a smaller area."

The Bill was introduced in March, and on June 12th, owing to the anxiety of the Government to pass the remainder of the Bill that session, and to the fact that there were no less than 200 amendments on the paper to the Licensing clauses of the Bill alone, these clauses were withdrawn in their entirety.

Two years later, in 1890, the Chancellor of the Exchequer, Mr Goschen, brought the question again into the forefront of politics through his Budget speech.

"There has been," he said, "during the past year an extraordinary rush to alcohol, producing an increase of duty exceeding £1,800,000. For eleven years the revenue from spirits had been declining, and for two years it was stationary.

"But during the past year the net receipts from all consumable articles except spirits, wines, and beer, actually fell short of the estimate by £130,000.

It is on drink, and on drink alone, as regards consumable articles, that the Revenue was under-estimated."

"The Committee will notice," he went on, "that there has been a universal rush; some have rushed to the beer barrel, others to the spirit bottle, and others to the decanter.

"All classes seem to have combined in toasting the

prosperity of the country in largely increased quantities of alcohol.

"This is a circumstance which must be deplored by all, and places upon the House of Commons and the Government an increasing liability to deal with the question of the consumption of alcoholic liquors.

"It appears that notwithstanding all our efforts in the cause of temperance, increased prosperity does not mean an increased consumption of other great classes of articles, but unfortunately does mean a great increase in the consumption of alcoholic liquors."

The actual percentages of increase which the Chancellor quoted as having occurred during the year were:

Rum, 12 per cent.
British Spirits, 7 per cent.
Brandy, 6 per cent.
Other Spirits, 5 per cent.
Wine, 10 per cent.
Beer, 4 per cent. in spite of a higher duty.

Later in his speech he indicated the intention of the Government to bring in a Bill to restrict the issue of new licenses, and to reduce the number of the old, and expressed the hope that they might be supported by both the licensed victuallers and the Temperance party in their efforts.

"Licensed victuallers," he said, "do not object to a diminution in the number of new licensed houses, and certainly the Temperance party desire it ardently. Eighteen years ago, on the introduction of Lord Aberdare's Bill, the licensed victuallers themselves suggested that they should be taxed to contribute to a compensation fund."

A few weeks later, before the Government proposals were presented to the House, Lord Randolph Churchill, who

described himself as a "somewhat recent recruit to the forces of licensing reform," obtained leave to bring in a Bill "to consolidate and amend the law of licensing, and to provide for the registration of clubs in which liquors are supplied."

His main object seemed to be to get the subject thoroughly discussed, and he did not proceed with the Bill to a Second Reading.

His Bill proposed:

1. The transfer of the licensing authority from the justices to Licensing Commissions, which were to be composed of popularly elected members of County and Borough Councils.
2. These Commissions were to have power to grant or refuse licenses without right of appeal, and to regulate hours of closing both on Sundays and weekdays.
3. In any parish where two-thirds of the ratepayers voted for prohibition, no licenses were to be granted for three years, when a further poll might be demanded.
4. Licenses were to be reduced to two classes only, the full publican's license, and the refreshment house wine and beer licenses. Beer houses were to be abolished. The rating qualifications of licensed houses were to be increased.
5. Clubs which supplied intoxicating liquor were to be registered, and to pay fees which ranged from 30s. a year for a working man's club up to £1,000 or £2,000 a year for some of those in the West End.

No provision was made in the Bill for compensation to those who lost their licenses, because this would involve taxation, which was outside the scope of a private member's Bill; but Lord Randolph expressed himself strongly on the absolute necessity of "compensation for vested

interests," and described this as " an indispensable accompaniment of any scheme of licensing reform."

Meanwhile Mr. Goschen's suggestions had been taking shape in the Licensing Clauses of the Government's own Bill (Local Taxation and Finance)

These constituted a second attempt to provide for gradual reduction of public-houses, the compensation this time to be provided out of a special fund which was to be raised from alcoholic drinks themselves, by increased taxes of 3d. a barrel on malt liquors and 6d. a gallon on spirits.

This fund was to be apportioned among the County Councils, to enable them to buy up such licensed premises as they from time to time thought proper, by mutual arrangement with the owners.

New licenses were not to be granted without the consent of the County Council, and then only on the express understanding that their renewal might at any time be refused at the free and unqualified discretion of the licensing authority.

In the end these clauses suffered the same fate as those of two years previously, and were withdrawn, owing mainly to the opposition of those who refused to recognise any kind of vested interest in a license.

In the year 1893 no less than three different measures were before Parliament for dealing with the liquor traffic; the Bishop of Chester's Bill, empowering local authorities to try a modified form of the Gothenburg system; the Bishop of London's Bill, for the establishment of Licensing Boards, and the Government's Bill, introduced by Sir William Harcourt, known as the " Liquor Traffic (Local Control) Bill."

Bishop of Chester's Bill.—Dr. Jayne, Bishop of Chester,

outlined his proposals in the following words in a London newspaper :[1]

" We are prepared to undertake the licensed victualling of your locality, paying to the dispossessed publicans such compensation as law and equity require.

" We will at once reduce our houses to such numbers as the licensing authority may deem necessary ; we will re-engage respectable publicans as managers, on terms far more favourable to themselves, their families, and the community, than managers now enjoy under the ' tied-house ' system. They will receive a fixed salary, with a bonus on the sale of eatables and non-alcoholic drinkables, but with absolutely no benefit from the sale of intoxicants.

" They will thus have no inducement to push the sale of alcohol, to drink with their customers, or to adulterate their liquors.

" As regards hours of closing and details of management, we shall within legal limits be guided by local experience and opinion.

" Our surplus profits will be applied to public, non-rate-aided objects, including the establishment of bright and attractive Temperance houses, to which those who wish to keep clear of the temptations of alcohol in any shape may safely resort."

The Bill was entitled " The Authorised Companies (Liquor) Bill," and was an attempt to give effect to the first recommendation of the Lords' Committee of 1879, and, in the Bishop's words, to " let a little new blood into our system of licensed victualling, without in any way interfering with personal freedom."[2]

[1] *House of Lords' Debates*, June 6th, 1893.
[2] *Daily Graphic*, October 25th, 1893.

The motion, however, for its Second Reading was defeated.

The Licensing Boards Bill,[1] for which Dr. Temple, Bishop of London, was the spokesman, proposed to transfer the granting of all drink, billiard, music and dancing licenses, from the justices in each district, to a specially elected Licensing Board.

These Boards were to be elected triennially, the cost of such elections to be borne by the County or Borough Councils.

There was to be Sunday Closing everywhere, except where the Board decided to allow sale during two hours for consumption off the premises only.

All clubs in which intoxicating liquors were sold were to be registered, and if the police had reason to believe that one was carried on simply as a drinking club, they were to have power of entry, and to charge members found on the premises and the owner of the house before a magistrate.

At the end of five years from the passing of the Act the following provisions were to come into force :

1. All Licenses were to be reduced to five classes,
   - (*a*) The full Publican's license for retail both " On " and " Off."
   - (*b*) The Wine and Beer " On " license, for refreshment houses, for people taking meals.
   - (*c*) The Wine and Beer " Off " license.
   - (*d*) Hotel licenses, in regard to people lodging or taking meals.
   - (*e*) Railway Refreshment Rooms licenses.
2. The boards were to have full discretion to grant or refuse licenses.

[1] Bishop of London's Bill.

3. The number of licenses was not to exceed 1 per 1,000 of population in towns, and 1 per 600 in the country, hotels and railway refreshment rooms being included.
4. The Value qualification of premises was to be raised.
5. No other retail business was to be carried on on licensed premises.

Between the passing of the Act and the end of five years the Licensing Boards would be required to refuse the renewal of so many licenses in each succeeding year as to bring down the whole number to the statutory proportion to population. Of the number to be suppressed a fifth were to be suppressed in each of the first four years, and the remainder in the fifth year.

Holders of the licenses so suppressed were to receive compensation calculated on three years' net profit of the house. This compensation was to be paid by those who retained their licenses, who would thus in effect buy out their competitors.

Every holder of a license would be compelled to make a statement of his net profits of the preceding three years. If he put down too little, his statement would be the measure of his claim to compensation in the event of his house being suppressed; if he put down too much, and he retained his license, his statement would be the basis of his taxation towards the compensation of the others.

Dr. Temple said:[1]

"There could be no doubt that the number of places where intoxicating liquors were now sold were far in excess of the needs of the population.

"This excessive number had three mischievous results:

"It increased the temptations to drunkenness. A poor

[1] *Parliamentary Debates*, May 12th, 1893.

woman had said she could get her husband past one or two public-houses safely, but not past nineteen, the number between his work place and his home.

"It increased the difficulty of enforcing the law as to serving those who had already had enough.

"It increased the competition in the trade to such an extreme degree as to provoke adulteration, and various undesirable inducements to buy liquor. (If the adulteration were with water only, he could not complain)."

The Bill met with a very unfavourable reception in the House of Lords, although there was general agreement as to the need for some reduction of the number of licensed houses; and after a scathing criticism of both the principle and the details of the Bill by Lord Salisbury, the Bishop allowed it to be negatived without a division.

Among Dr. Temple's arguments was his repeated assertion that his hearers in the House of Lords could not judge of the feelings of working men, because they were not exposed to the same temptations.

Lord Salisbury replied that a few generations back every one of them would have been exposed to those temptations, and would probably have yielded to them. He would not say that the vice of drunkenness was non-existent in the middle and upper classes even yet, but the change had been enormous. The reformation had been so great and rapid that they might conclude it would go forward with accelerated pace, and that the same beneficent influences would operate in all classes. The natural, wholesome, and only real remedy for the great evil would accomplish itself, and education and enlightenment would drive away what was really a barbaric vice.

The Government's own measure, called the "Liquor

Traffic (Local Control) Bill,"[1] was brought in and read a first time on February 7th, 1893. Sir William Harcourt, as Chancellor of the Exchequer, introduced it.

He described it as " A short Bill, a simple Bill, but not a licensing Bill. It does not profess to deal with the licensing question."

" The first clause of the Bill," he said, " practically contains the main substance of the measure."

It ran as follows :—" One-tenth of the electors, living in the areas hereinafter mentioned, may address a requisition in writing to the authorities hereinafter mentioned, requiring the authority to cause a poll of the electors to be taken on the question whether total closing shall be adopted within the area. Thereupon a poll shall be taken in the manner directed by the Act.

" If a majority of two-thirds of the persons voting on the above resolve the question in the affirmative, then, while the resolution is in force, no license shall be granted or renewed, except as by this Act provided, for the sale of intoxicating liquor within the area."

In answer to questions he said the electors were the " municipal electors, those who elect the borough or county councils, including therefore the women who are deeply interested in the matter " ; the areas were either parishes or wards, " the smaller the area the more accurately in my opinion you get the real opinion of the community " ; the authorities for taking the poll were the Borough councils, the Urban District Sanitary councils, or the Overseers ; and the exceptions provided by the Act, whose licenses were excluded from its operation, were " railway refreshment rooms, hotels, and eating-houses."

[1] Sir William Harcourt's Bill.

No pecuniary compensation was provided for, but time was to be given for the license holders to make their arrangements; no local prohibition was to come into force for three years after the passing of the Act, and in any case there was always to be one year's grace between the taking of the poll and the enforcement of the local veto.

Another clause of the Act provided that "when a poll has been taken in any area on the above question, a further poll shall not be taken before the expiration of three years from the date when the resolution came into force, or, if the question is resolved in the negative, from the date of the poll."

At any such later poll the previously adopted resolution could only be rescinded by a similar majority of two-thirds of those voting.

The principle of local option was also to be applied under the Bill to Sunday Closing; with the difference that on this question a simple majority instead of a two-thirds majority should be decisive, and that the resolution was to be put into effect immediately without the one or three years' interval.

In the debate on the first reading it was stated without contradiction that the Bill was framed on the lines of the United Kingdom Alliance, "whose object was, according to Sir Wilfred Lawson, to sweep away the liquor traffic in the whole of the United Kingdom."[1]

The "Permissive Bill" of Sir Wilfred Lawson was first introduced in 1864, and in the next fifteen years was nine times before the House of Commons.

In 1879 the Bill was dropped, and on the suggestion of Mr Bright, a Resolution was moved instead.

[1] *Parliamentary Debates*, February 7th, 1893.

Mr. Bright said that he and others "felt a difficulty in binding themselves by the precise provisions of a Bill, but were quite willing to assent to a Resolution which would express the general principle, which might afterwards be embodied in a Bill."

The actual Resolution was as follows:

> "That inasmuch as the ancient and avowed object of licensing the sale of intoxicating liquor is to supply a supposed public want without detriment to the public welfare, this House is of opinion that a legal power of restraining the issue or renewal of licenses should be placed in the hands of the persons most deeply interested and affected, namely the inhabitants themselves, who are entitled to protection from the injurious consequences of the present system by some efficient measure of local option."

In 1879, and in March, 1880, the Resolution was defeated; but in June, 1880, after a general election and change of government, it was carried by a majority of twenty-six.

In 1881 and 1883 a Motion affirming the "desirability of giving legislative effect to the above resolution" was carried by increased majorities, forty-two and eighty-seven.

Sir William Harcourt's Local Option Bills were introduced in 1893 and 1895 respectively.

A comparison of the voting forms attached to the three will show the difference in their scope.

1.—Sir Wilfrid Lawson's Bill.

Voting Paper.

An Act to enable owners and occupiers of property in certain districts to prevent the common sale of intoxicating liquors within these districts.

Do you vote in favour of or against the adoption of this Act in this—— ?

In favour of	Against

2.—Sir William Harcourt's first Bill, 1893.

A Bill to establish Local Control over the Traffic in Liquor.

(*a*) Where Poll is taken on Question of Total Closing.

For Total Closing.	
Against Total Closing.	

(*b*) Where Poll is taken on Question of Abolishing Total Closing.

For Abolition of Total Closing.	
Against Abolition of Total Closing.	

(*c*) Where Poll is taken on Question of Sunday Closing.

For Sunday Closing.	
Against Sunday Closing.	

(*d*) Where Poll is taken on Question of Abolition of Sunday Closing.

For Abolition of Sunday Closing.	
Against Abolition of Sunday Closing.	

3.—Sir William Harcourt's second Bill, 1895.

A Bill to establish Local Control over the Traffic in Intoxicating Liquor.

Form of Ballot Paper.

(*a*) Ballot Paper where no Resolution is already in force.

Are you in favour of Total Prohibition of ordinary licenses?	Yes.
	No.
If there is not Total Prohibition are you in favour of a limitation in the number of ordinary licenses?	Yes.
	No.

(*b*) Where a Prohibitory Resolution is in force.

Are you in favour of repealing the Resolution prohibiting ordinary licenses?	Yes.
	No.

(*c*) Where a Limiting Resolution is in force.

Are you in favour of the total Prohibition of ordinary licenses ?	Yes.
	No.
If there is not total prohibition are you in favour of a further limitation of the number of ordinary licenses ?	Yes.
	No.
Are you in favour of repealing the resolution limiting the number of ordinary licenses ?	Yes.
	No.

(*d*)

Are you in favour of Sunday Closing ?	Yes.
	No.
Where a resolution for Sunday Closing is in force, are you in favour of repealing the resolution for Sunday Closing ?	Yes.
	No.

In the debate on the 1893 Bill Mr. Tritton, Member for Lambeth, who had been an independent Temperance worker for twenty-five years, said that "he had never belonged to what was called the Temperance party, and did not know why they should arrogate to themselves such a title," and went on to say that "there were very many earnest abstainers throughout the country who, like himself, viewed this direct veto scheme with appre-

hension." "The Bill was not conceived on the principles of justice, but of confiscation and tyranny." "He wanted to see a Licensing Bill brought in to reduce the number of public houses in accordance with the population. That he believed would do some good," while this was "merely the old story of votes."

Mr. Wyndham, M.P. for Dover, described the Bill as "crude, unjust, tyrannical, and inexpedient." It was "tyrannical to minorities," "unjust towards license-holders" and "inexpedient in the interests of temperance reform itself," for "the true path of reform lay in abolishing smaller and disreputable public houses, and building up the others so that they might be places of reputable resort and social recreation."

The Bill was abandoned, ostensibly owing to the pressure of the Home Rule debate, in September, 1893, but was re-introduced with very little variation in March, 1895 In June of that year the Liberal Government resigned, after an unexpected defeat in connection with cordite, and the Local Veto Bill disappeared.

Two legal decisions in the early '90's affected the liquor traffic.

In the case of "Penn versus Alexander," a Court of five judges in the Queen's Bench Division decided by four to one, that "if the primary or main object of a journey is to obtain liquor the person making it is not a *bona fide* traveller within the meaning of the Licensing Acts."[1]

The other decision was that of the House of Lords in the case of "Sharp versus Wakefield."

Mrs. Sharp, the owner of a public house in a remote

[1] Judgment, February 5th, 1893. Quoted by Herbert Gladstone, March 3rd, 1893, in answer to a Question in House of Commons.

part of Westmoreland, was refused renewal of her license by the Kendal magistrates, on the grounds that the house was unnecessary and remote from police supervision. Quarter Sessions upheld the magistrates, and the case was made a test and carried through the various courts to the House of Lords.

Judgment was given in March, 1892, and unanimously upheld the lower courts, affirming the absolute discretion of magistrates in granting or renewing licenses.

This meant that there was no legal claim to compensation for the loss of a license, however strong a claim there was in equity.

All through this period compensation was the rock on which measure after measure had been shipwrecked. The Teetotallers refused support to any proposals, however much they otherwise agreed with them, which provided for payment to those who lost their licenses ; while vast investment had been made in the trade, in reliance on the long-standing custom of the justices not to refuse renewal of a license except for proved misconduct.

CHAPTER VIII

The Peel Commission
1895–1900

ROYAL COMMISION ON LIQUOR LICENSING LAWS

On February 20th, 1896, Mr. H. Broadhurst asked the First Lord of the Treasury " whether it was the intention of the Government to appoint a Royal Commission to inquire into the grievances of tied-house tenants and other licensing questions."

The reply was that " The Government have no objection to an inquiry into the licensing laws, but the subject is a thorny and difficult one, and before proceeding further we should like to be assured that there is some agreement as to the terms of reference among the various persons interested in this difficult subject."

The Commission was actually appointed on April 24th, with the following terms of reference :

" To inquire into the operation and administration of the laws relating to the sale of intoxicating liquors, and to examine and report upon the proposals that may be made for amending the said laws in the public interest, due regard being had to the rights of individuals."

The sitting lasted, with Viscount Peel as Chairman, for three years, and resulted in two separate Reports :

The Majority Report, signed by 17 of the 24 members, and the Minority Report, signed by 9 of the

members, including the Chairman; two members, Dean Dickinson and Mr. Allen, signing both Reports, the Majority Report as to Part 5, and the Minority Report as to Parts 1 to 4; and no less than 15 of the members appending individual "reservations" and "addenda."

The recommendations and proposals are obviously so numerous that a synopsis only is possible within the limits of a book. A synopsis at least presents to a reader or student the great complexity of the subject and the many varying interests connected with it.

Majority Report.

Part I. England and Wales.

Recommendations, with paragraphs from the body of the Report, relating to each recommendation.

Recommendation 1.

"The Law should be consolidated and simplified."

Chap. 3.

"The complexity of the law adds materially to the difficulty of those who administer it. For 70 years Parliament has been passing Amending Acts. A consolidating Act, a clear statement of what the law is, should precede any further attempt at amendment."

Recommendation 2.

"The number of licensed houses should be largely reduced."

Chap. 4.

Although great caution is necessary in directly connecting drunkenness with the proportion of licensed houses to population, a large reduction would facilitate effective supervision by the police, would diminish competition, and improve the status of both premises and licensees.

Recommendation 3.

"The tied-house system. The agreements between owner and tenant should always be produced to the Licensing Authority on applications for transfers or new licenses, and it should be left to that Authority to say whether the terms are such as to warrant the refusal of the application.

In the case of a managed house the employer should hold the license, but the name of the manager should be registered with the Licensing Authority. A duplicate of all agreements should, if required, be lodged with the clerk to the Licensing Authority."

Chap. 5.

In effect threequarters of the licensed houses are now more or less tied. This is mainly the result of competition, compare bakers' shops financed by millers, and grocers by wine merchants and tea dealers.

The evidence does not prove that the tied-house system leads to more drinking.

Under a good and careful brewer the system may operate advantageously, and produce excellent results. Under less satisfactory conditions it may have opposite results.

The abolition of the system is impracticable; the tie could exist without any written contract.

Another suggestion, of dual licenses, one for the owner, and one for the tenant, would limit the tenant's responsibility, and lessen the control of the Licensing Authority.

Recommendation 4.

"Members of the Licensing Authority should not be disqualified through holding shares in a Railway Company owning licensed refreshment rooms or hotels."

Chap. 6.

Under the existing law justices holding such shares were disqualified. The resultant inconvenience to the administration of the law greatly exceeded the remote risk of biassed decisions.

Recommendation 5.

"The disqualification which applies to members of the Licensing Authority should apply equally to the clerk to the Licensing Authority.

Chap. 6.

"Further we think it undesirable that a clerk to the Licensing Authority should take private business connected with licensing from persons in the trade."

Recommendation 6.

"The reasons for the refusal of a renewal of a license should be stated in open court, and, if desired by the applicant, should be given in writing."

Chap. 6.

Quotes the Lord Chancellor in "Sharp v. Wakefield," "The Legislature has given credit to the magistrates for exercising a judicial discretion—that they will fairly decide the questions submitted to them, and not by evasion attempt to repeal the law which permits public-houses to exist, or evade it by avoiding a plain exposition of the reasons on which they act."

Recommendation 7.

"Notice to the Licensing Authority itself of all applications for new licenses should be required."

Chap. 7.

It is a grave anomaly that no such notice has been required. A complete list of applications should be before the licensing meeting.

Recommendation 8.

"A proper interval (say a month) should be left between the grant and the confirmation of a new license, so that the second hearing may be a reality.

"All new licenses (including off-licenses) should require confirmation."

Chap. 7.

The requirement of confirmation has acted as a check on new licenses, and will do so to a greater extent when "off" licenses are brought under the same rule.

Recommendation 9.

"Ante-1869 beer houses should be brought under the discretion of the Authority, but, in the absence of misconduct, should not be abolished, except under the scheme of compensation in Part 5.

"And in case of a valuation under the Lands Clauses Consolidation Acts, any value the license may have acquired owing to its Parliamentary title should be taken into account."

Chap. 7 (2).

These are a class of houses which stand in urgent need of reform, but over which the justices can exercise a very limited control. There does not seem any reason why the general discretion of the justices should not be extended to these licenses.

Recommendation 10.

"Temporary transfers should be abolished, except in case of death, bankruptcy, or illness.

"Notice to the police should be required in all cases.

"If the special sessions for transfers are too far apart, they should be increased to (say) one per month.

"The transferor should be compelled to attend when possible.

"The transferee should be examined as to his position and interest, and should be prepared to produce his agreement.

"The Licensing Authority should have power to make regulations against repeated applications."

Chap. 7 (3).

An application for a transfer should not be made the occasion for suppressing the license; otherwise a licensee, incapable of exercising proper supervision through illness or other cause, would be deterred from transferring.

Recommendation 11.

"Annual licensing sessions should be held in March instead of August or September."

Chap. 7 (4).

They were already held in March in Middlesex and Surrey.

Recommendation 12.

"No license should be renewed to a public-house of under £12 annual rateable value. Some time notice should be required."

Chap. 8.

Time should be given in which the license holder might improve his premises so as to make them of sufficient value.

Recommendation 13.

"The custom of submitting plans for the alteration or rebuilding of licensed premises to the Licensing Authority should be made statutory."

Recommendation 14.

"Wide discretion should be allowed to the Licensing Authority in imposing conditions, especially as to back and side doors, long bars, etc., but these should be defined and regulated by Statute or the Order of a Secretary of State. The imposition of conditions should be confined to new licenses, except as regards structural alterations.

"Conditions imposed should be entered in the register, and there should be power to refuse the license, on proof of a breach of such condition, without appeal, except upon the question whether such a breach had, in fact, taken place."

Recommendation 15.

"All 'off' wine and spirit licenses should be subject to the full control of the Licensing Authority as well as all wholesale licenses for the sale of wine, spirits, beer, and sweets,

excepting those required by brewers, distillers, wine and spirit merchants, and blenders."

Chap. 9.

Beer " off " licenses had been brought under full magisterial control in 1880–2.

In regard to the other " off " licenses, the justices had only a limited discretion, which should be enlarged.

Recommendation 16.

" The sale of liquor in passenger vessels plying between ports of the United Kingdom, and in theatres, should be brought under the control of the Licensing Authority."

Chap. 9.

Excursion steamers could cater without restriction of hours, and without any guarantee for proper supervision of the supply of drink at their bars.

They should require a license from the justices at the port of departure, and be fully subject to their jurisdiction in this respect.

Theatres obtained their license to sell liquor from the Excise; these also should be brought under the control of the justices.

Recommendation 17.

" The Licensing Authority should be re-constituted as follows :—

(*a*) In divisions of counties and non-county boroughs the Licensing Authority should consist of three, six, or nine members, selected triennially; two-thirds to be justices, nominated by the justices of the petty sessional division (or, in the case of boroughs, with a separate commission of the peace, by the borough justices), one third to be nominated by the County Council or in the case of the boroughs mentioned by the Town Council, out of their respective bodies.

(*b*) For County Boroughs, it should consist of three, six, or nine members, selected in the same manner, and in the

same proportion, by the Borough Justices and Town Council.

The number in each case should be fixed by the Secretary of State.

The Court of Appeal should be reconstituted as follows:—

(*a*) For each County and the non-county Boroughs therein, the Court of Appeal should consist of justices nominated triennially by the County and Borough Justices; the number for each county to be determined by the Secretary of State, and apportioned by him between the Counties and Boroughs according to population.

(*b*) For each County Borough it should consist of justices nominated triennially by the Borough Justices (the number to be determined by the Secretary of State) with the Recorder as ex officio Chairman whenever the Borough has a separate Quarter Sessions.

The Licensing Authority and the Court of Appeal should have power to administer oaths, and be guided by the ordinary rules of evidence and procedure generally, and the Chairman should have no casting vote.

Each tribunal should have power to state questions of law in the form of a special case for the superior courts.

Chap. 11.

The ratepayers are undoubtedly interested in the original granting of licenses, and we think that in the composition of the Licensing Authority there might fairly be associated with the justices a limited number of members of the County Council or other representative body; but that the Court of Appeal, which is a more distinctly judicial court, should consist as at present of justices only.

Recommendation 18.

"The Licensing Authority should in no case be liable for the costs of an appeal."

Recommendation 19.

"The law as to travellers drinking at Railway Stations requires amendment."

Chap. 12.

"It appears to us that the decision in Williams v. Macdonald (*Times*, 3rd May, 1899) renders an amendment of the law absolutely necessary, unless it is to be a dead letter wherever there is a railway station within reach. A person has only to spend a few pence on a return ticket, in order to be served when he starts, again when he arrives, and again on his return."

The effect of the decision referred to was that the provision with regard to the three mile distance, as in the Welsh Sunday Closing Act of 1881, did not apply to railway travellers, but only to persons travelling by other means.

"The second paragraph of Section 10 of the Act of 1874 must be read as meaning that persons arriving and departing by train are for the purpose of obtaining drink during closing hours *bona fide* travellers within the meaning of the Act." Mr. Justice Channell.

"The learned judge (Mr. Justice Darling) could not see that a man was not a traveller by reason of the fact that he had a drink at each end of his journey. If he had taken his ticket and not departed the case would have been different, but here he had really departed from such station."

Recommendation 20.

"Complete Sunday Closing should be extended to Monmouthshire."

Chap. 12.

There is a strong local desire in Monmouthshire to be associated with Wales in the matter of Sunday Closing. We consider this wish should be acceded to, especially as regards urban districts near the border. An important object is to get a border line where there is a sparse population.

Recommendation 21.

"The Licensing Authority should have power to impose the conditions of Sunday Closing upon a new license."

Chap. 12.

Six-day licenses could only hitherto be granted on application; and once granted, it was almost impossible to regain a full license.

There was also the question of the Common Law obligation to supply travellers, which should be cleared up in any fresh legislation.

Recommendation 22.

"Except in London and the principal cities, the hours of opening on Sundays should be restricted, to 2 hours at mid-day and 2 hours in the afternoon."

Chap. 12.

"To enact complete Sunday Closing in England would be in our judgment at the present time a step too far in advance of public opinion."

Recommendation 23.

"A limited number of licensed houses, where travellers may be served at specified hours, should be selected by the Licensing Authority, and a special license imposed on them. The statutory distance should be extended to six miles."

Chap. 12 (6).

We do not think it necessary to maintain the right of the *bona fide* traveller to be served during prohibited hours, but the needs of genuine excursionists cannot be entirely left out of sight.

On weekday hours of closing they said in the same chapter:—

"We should welcome some further curtailment, but we do not think that public opinion will sanction any earlier hours of closing in the evenings on weekdays at present."

Recommendation 24.

"Occasional licenses should only be granted, after notice to the police, by two or more justices sitting in petty sessional court house."

Chap. 13.

There are obvious objections to this power being exercised except in open court.

Occasional licenses should not be renewed as a matter of course so as to make them practically continuous for a considerable period.

Recommendation 25.

"Sale, either on or off, of any kind of intoxicant to children under the age of 16 should be forbidden. The penalties now imposed for knowingly serving children under age should be raised, and similar penalties should be imposed on those who send them."

Chap. 14 qualified this recommendation by saying:—

"The distinction between sale to children for their own consumption and sale to them as msesengers on behalf of others must be carefully borne in mind."

"As recently as 1886 Parliament considered the proposal to forbid the serving of child messengers a serious interference with the parental discretion and the convenience of working men. Legislation in this direction therefore should only be undertaken after the fullest discussion with those best qualified to speak for the class affected, otherwise a strong reaction of opinion might follow."

Recommendation 26.

"Standing Joint Committees should be made to provide petty sessional rooms, which should also be used for inquests and revising barristers' courts, so that licensed premises need not be employed for the purpose."

Chap. 1.

Standing Joint Committees have ample powers to provide petty sessional rooms, and should be compelled by law to exercise such power in all cases.

Recommendation 27.

"Licenses should not be granted to common lodging houses. Especially in sea-ports a bye-law should be adopted under

Section 214 of the Merchant Shipping Act of 1894, so as to prevent public-houses being used as lodging-houses for seamen."

Recommendation 28.

"No public music or dancing should be permitted without a license from the Licensing Authority. The adoption of Part 4 of the Public Health Act should be made compulsory."

Chap. 15.

We do not think that the grant of music and dancing licenses to public-houses should be absolutely prohibited; but music and dancing should not be permitted without music and dancing licenses.

The Public Health Act, 1890, Part 4, c.51, "For the regulation of places ordinarily used for public dancing or music, etc.," was adoptive in urban districts only, and should be made compulsory in both rural and urban districts.

Chap. 15 also mentions "Grocers' Licenses," which are not dealt with in the Recommendations.

The proposal to restrict the "off" license to traders dealing in no other articles but intoxicants would to a large extent amount to cancelling this class of license altogether.

The business carried on by mixed traders meets the wants of an important part of the population, whose convenience is entitled to careful consideration.

We do not recommend any alteration of the present system as regards the combination of trades.

If our other recommendations are adopted (see Recommendation 15) the Licensing Authority will have full discretion and power to impose conditions in the case of these licenses as in all others.

Recommendation 29.

"(*a*) The same disqualifications should apply to members of a Watch Committee as now apply to members of the

Licensing Authority, and further, any person acting as solicitor or valuer for any brewing company or trade organisation should also be disqualified.

(*b*) The chief or head constable should not be removable, except with the sanction of the Secretary of State."

Recommendation 30.

" Legal assistance should be provided for the police in proceedings under the licensing laws."

Recommendation 31.

" A general course of instructions should be issued to the police as to dealing with drunkenness, etc."

Recommendation 32.

" There should be a general power of arrest for simple drunkenness, apart from disorder."

Recommendation 33.

(*a*) " No constable in uniform, whether on or off duty, should be served with intoxicating liquor without an order from a superior officer."

(*b*) " The practice of testimonials to retiring inspectors should be prohibited."

Recommendation 34.

" The Licensing Authorities in each County should have a certain number of officers of high rank as inspectors to report on the general condition of the houses."

Chap. 17.

It is unnecessary to have a central body of special inspectors of licensed houses.

Recommendation 35.

(*a*) " In some cases of offences by license holders the penalty should be the temporary suspension of the license, instead of the imposition of a fine."

(*b*) " When a person is found drunk on licensed premises,

or is seen leaving the premises in a drunken condition, it should be incumbent on the license holder to show that neither he nor his servants knew of the drunkenness, or that they did not, with such knowledge, permit him to remain on the premises."

(c) "The police should have instructions when possible to warn the license holder if a drunken person is seen to enter the premises."

(*d*) "Instead of the present system of endorsement, a record of all convictions should be kept in the register of licenses. The register should give full particulars of the charge and of the penalty imposed, and should be produced before the Licensing Authority."

"The register should be open to inspection for a trifling fee."

Chap. 18.

(On *b*) There is a great discrepancy between the number of convictions for drunkenness and the small number of license holders proceeded against for permitting drunkenness.

(On *d*) What is really essential is a complete record of the history of the house. No mere change of tenancy should whitewash a house of bad character.

Recommendation 36.

"A summary of legal regulations should be displayed in all public-houses."

Recommendation 37.

(*a*) "To be drunk when in charge of a child of tender years should be an offence, with a penalty attached higher than that for simple drunkenness."

(*b*) "Habitual drunkenness should be treated as persistent cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife or husband to separation and protection for herself or himself and children."

Recommendation 38.

"Habitual drunkards (to be defined by the number of convictions) should be placed on a black-list, and the license holders should be warned by the police not to serve persons so notified. A penalty should attach to any license holder knowingly serving such persons. The persons prohibited, having notice of the order made against them, should also be liable to penalties in the event of their attempting to evade the prohibition."

Chap. 20.

The remedy would be most efficacious in small towns and villages.

Even in large cities most of such persons frequent the same houses habitually, for the sake of their boon companions. The prohibition therefore would not be without effect, and in any case the disgrace and publicity of the stigma would act as a strong deterrent, and would strengthen the growing public opinion against such transgressors.

Chap. 21 deals with alleged adulteration, on which there is no Recommendation.

"Allegations have been made in Parliament and widely repeated throughout the country to the effect that adulteration by retailers of beer and spirits with deleterious ingredients is practised."

Had such cases been established, most drastic legislation would be justified.

No evidence however has been before us in support of these allegations—and the evidence of Mr. Richard Bannister (of the Government Laboratory) and of other witnesses has conclusively disposed of them.

Parts II and III of the Report deal with Scotland and Ireland respectively.

Part IV deals with Clubs.

The Majority Report says:—

"It is difficult to draw the line between a Club which is a perfectly legitimate social institution and one in which the

sale and purchase of drink is the leading incentive, nor can the various motives which actuate those who become members of clubs be gauged, e.g. a club established for a political purpose may degenerate owing to the freedom from restraint."

"A club is a private institution; it is certain that working men would resent restrictions on their own clubs which are not imposed on those frequented by the upper classes."

"Excessive limitation of the number of licensed houses or undue restrictions on their public use, lead to the substitution of clubs which, even when well conducted under every guarantee, may be productive of mischief."

"Management by those who are responsible neither to the members of the clubs nor to any constituted authority is frequently bad."

"In many clubs rules are non-existent and membership a farce."

The Recommendations with regard to Clubs in the Majority Report were:—

1. All clubs in which intoxicants are sold should be registered.
2. The onus of proving *bona fides* should be placed on the club applying for registration.
3. No club should be registered unless the club property be vested in all the members of the club or in trustees, and unless no individual member is interested directly in the sale of exciseable liquors on the club premises.
4. The Registering Authority should examine the rules, and satisfy itself that the club is not formed solely for the purpose of sale and consumption of intoxicating liquors, and that some check is placed on the election of members, the privileges of honorary membership, and on the introduction of friends by members.
5. The sale of intoxicating liquor for consumption off the premises should be strictly prohibited.
6. No person under 18 years of age should be admitted as a member of a club in which intoxicants are sold.
7. Authority to grant certificates to clubs should be the

stipendiary magistrate in cities and towns where they exist, and in other localities a court of petty sessions, consisting of not less than three justices.

Part V. General.

Recommendations, etc.

1. "Reduction of Licensed Houses, Areas of. To be in England Counties and County Boroughs."

Chap. 1.

Circumstances vary widely with regard to congestion. We do not therefore recommend any fixed proportion of licenses to population.

2. "Authority to decide amount of.

In England.

In Counties, the Standing Joint Committees.

In County Boroughs, Bodies to be constituted like Standing Joint Committees in Counties.

All such authorities to report their actions to the Secretary of State.

Authority to allot reduction within licensing area to be the Licensing Authority."

Chap. 1.

The Committee would take evidence from the police and the Licensing Authority as to the degree of congestion of each division, while the local knowledge of the Licensing Authorities could be trusted to apply the reduction within the limits assigned to them, according to the varying needs of the different portions of their divisions.

The report to the Secretary of State was intended as a safeguard against *vis inertiae* on the part of committees.

3. "Compensation.

Persons interested in all licensed premises to declare the value of license and goodwill.

The Licensing Authority if dissatisfied to have the right to have the value ascertained under the Land Clauses Consolidation Act.

Such value to be the basis of special taxation on

licenses not suppressed, to form a compensation fund, and to be the amount paid as compensation for those suppressed."

4. Compensation.

"Public-house and beer-house licenses and all off-licensed houses to contribute a special tax of 6*s.* 8*d.* per £100 per annum.

Hotels and restaurants in like manner 1/16th of their annual rateable value per annum.

Clubs to contribute.

Licensed premises when enlarged to pay an increased contribution."

Chapter 2 discusses the pros and cons and possible methods of compensation at some length.

(It may be noted that Compensation was incorporated in the Act of 1904, after renewed discussion in Parliament, and the equity of it is no longer in dispute.)

5. "New licenses only to be granted when the Authority has resolved that one or more are required within an area defined by them.

Tenders of an annual license rent for seven years.

Such rents to be added to the compensation fund."

Hitherto the initiative had been wholly in the hands of applicants, whose interests might or might not coincide with those of the public.

It appears to us that the initiative ought to be with the Licensing Authority, and that no new license should be granted unless the Authority have first given notice publicly of their intention to consider the grant of a new license or licenses within an area defined by them.

6. "Above scheme of reduction, taxation, and compensation, to be worked in seven-year periods, the Authority having power to borrow at the beginning of such periods on security of the income arising during the period from the above sources."

7. "Above scheme to be applied *mutatis mutandis* to Scotland and Ireland."

Local Prohibition and Municipal Management.

The Majority Report deals with these two proposals in Chapter 3 of Part V.

Local Prohibition.

"A directly representative element has by the provisions of the Local Government Act already been admitted to the body of the Justices, and hence to the Licensing Authority, and in our proposals we recommend that the Town and County Councils shall be given special representation.

We are therefore of opinion that adequate means will have been taken to secure that the local conditions should be thoroughly understood, while at the same time continuity of policy and a stable administration of the law is provided for.

We are not satisfied that there is at the present time a general desire for the power of local prohibition by plebiscite, and we do not advise the adoption of any of the plans for this purpose which have been submitted to us."

Municipal Management.

"A large proportion of temperance advocates are strongly opposed to the municipalities undertaking in any form the management of the trade in alcoholic liquors; and great dangers would arise were local authorities tempted to try experiments of this class, not on grounds of public policy, but on account of opportunities being offered to public bodies to make a great pecuniary profit.

In our judgment the scheme has not so far been presented in a form in which we could recommend its trial, even as an experiment."

The signatories to the Majority Report prefaced their recommendations with the following sentence:—

"It will be seen that we are in practical agreement with the

Minority Report on the Recommendations numbered (Part 1) (England)

1. 2. 4. 5. 7. 8. 9. (partly).
10. (1. 2. 4. 5. 6.).
11. 12. 13. 15. 16. 18. 19.
20. 23. 24. 25. (partly).
26. 27. 29. 30. 32. 33. (partly).
34. 35. (*a. b. d.*).
36. 37. (*a.* and partly *b.*), 38. (partly).

(Part IV) (Clubs)

1. 2. 3. 4. (partly), 5. 6."

Royal Commission, 1896–1899.

Recommendation of the Minority, so far as they differ from those of the Majority.

Part I.

Recommendation 3.

"All agreements and arrangements governing the tenure of licensed houses should always be submitted to the Licensing Authority, which should have full discretion to refuse the license, if these provisions are contrary to public policy, or to grant the license on condition that such clauses in the agreement are struck out; clauses so struck out should be *ipso facto* void.

"A record of all breaches of the law in the house in question should be kept and produced on all occasions when the Licensing Authority have to deal with the license, and they should have the power of visiting the house with the penalty of suppression in the event of the record justifying that extremity."

Chapter V. 10.

"The real occupier of the house should be the only person with whom the bench should deal, and his misbehaviour should entail penalties upon him, and upon the house itself, the penalties, whether on the man or the house, being imposed by the direct authority of the bench, and

not by authority transmitted to a brewer or a company.

" The agreements which govern the tenure of houses, whether partly or wholly tied or whether conducted on the managerial system, are essential factors in the question, and constitute a set of circumstances which should be fully within the cognisance of the Licensing Authority."

Recommendation 8.

" Ante-1869 beer-houses should be subjected to the full discretion of the Licensing Authority, in the same manner as fully licensed public-houses."

Chapter VII. 2.

Beer " off " licenses, protected in 1869, were brought under the full discretion of magistrates in 1882 ; why should not ante-69 " on " licenses be similarly dealt with ?

Recommendation 9. (Majority 10.)

Additional clauses.

(*g*) " The Licensing Authority should have power to close the house after conviction till the next annual licensing sessions.

(*h*) The law should be generally very much simplified and codified."

Chapter VII. 3. (6).

" It is a mistake to suppose that a mere change of tenant can whitewash the character of a badly conducted licensed house, although many benches act on the principle that a transfer to a new tenant purges all offences.

" It may of course be an advantage to get rid of a bad tenant after conviction, but in such cases the justices should have power to close the house till the next licensing sessions, when the whole question of renewal may be considered."

" On the whole subject of transfer, law and procedure are alike defective.

" The principal part of the law dates from 1828, it is full of difficulties, and needs simplification."

"In Nottingham the practice of transfer after refusal of the license is apparently well known.

"It is an astounding anomaly that a license can be transferred in this way after it has expired (for that is what these grants under 1828 Section 14 amount to), yet apparently this is held to be the law.

"It is a good instance of the complication of the law."

Recommendation 12. (Majority 14.)

"Licensed houses should be as open as possible to supervision, both from the outside and the inside.

"They should not be placed in connection with back courts or yards.

"They should have the smallest number of doors compatible with the proper conduct of the trade and should not admit of communication of any kind with the dwelling of the publican or with the lodgers who are in the house."

Chapter VIII. 2.

Construction of Premises.

"The evils that exist are numerous, opportunities are given for secrecy, and for withdrawing the customers not only from the supervision of the police, but from the observation of the publican himself."

Recommendation 14.

"There should be a special Hotel license, and beyond this the Licensing Authority should have full discretion to insert in the license conditions as to early and Sunday closing, open drinking bars, restaurants, supply of food, etc.

"These conditions should be entered in the register, and on proof of a breach of any such condition there should be power to refuse the license without appeal, except upon the question whether any such breach of conditions has in fact taken place."

Chapter VIII. 3. 5.

"What happens in Pontypridd and Rhondda should be made impossible.

"There after the license has been granted for 'large,

palatial looking buildings,' with coffee rooms and commercial rooms displayed on the plan, the rooms are closed, and all the accommodation the public can get is a long bar without food or proper refreshment for travellers."

Recommendation 17.

Reconstitution of the Licensing Authority.

"The original Licensing Authority in each division should consist of a Committee of from six to ten members, elected half by the justices of the division from their own number, half by the County or Town Council.

"The Committee should be elected for a period of three years, and should select a permanent chairman from their own number."

Reconstitution of the Appellate Body.

(*a*) "In boroughs the appellate body should consist of the members of the original licensing authority sitting along with a larger number (in the proportion of three to two) of additional members, elected half by the Town Council and half by the Borough Justices."

(*b*) "In Counties, a County Committee should be appointed, half by the County Council and half by the County Justices, and this Committee, on an appeal being taken from any particular division of the County, should sit with the original licensing authority of that division to hear it. The new element should be in the aforesaid proportion to the old, viz., three to two."

"Both in counties and boroughs the new appellate body should perform the functions of the present confirming committee.

"Members of the appellate body should be elected for a period of three years."

Chapter XI.

"The general tendency of our remarks and recommendations as hitherto expressed tend in the direction of conferring greater powers and increased responsibility upon the Licensing Authority.

" The Licensing Authority should be invested with complete discretion in granting licenses of all kinds (with the exceptions formerly mentioned), and in attaching special conditions to the grant of licenses, with the duty of examination into the contracts and agreements entered into between owner and tenant, and of more effectually supervising the structure and alteration of licensed premises.

" It may be urged that the better the constitution and the greater the efficiency of the original Licensing Authority the less need there would be for a Court of Appeal. We think however that an appeal or re-hearing to a properly constituted tribunal should be allowed.

" There is considerable difficulty in deciding upon a satisfactory appellate body.

" The presence of a new element will give a guarantee that the case will be properly re-heard, and a full opportunity given to bring forward any additional facts, while the presence of the original Licensing Authority will ensure the proper presentation of their views, and be a safeguard against local knowledge being disregarded and overridden.

" To avoid even the appearance of injustice the new element in the appellate body should exceed in numbers the original Licensing Authority."

Recommendation 20.

" Hours of opening on Sunday should be restricted to one hour at mid-day and two hours in the evening as a maximum, and the Licensing Authority should have power to reduce the hours or to close entirely."

Recommendation 21.

" Frequenters of shebeens should be made liable to arrest."

Recommendation 22.

(*a*) " A separate license should be issued for hotels having a certain quota of bedrooms for the reception of guests, and no public bar accommodation.

"These hotels, together with houses licensed exclusively as restaurants, should alone possess the privilege of serving *bona fide* travellers, during certain hours to be fixed by the Licensing Authority.

(*b*) "Travellers should be defined as persons about to lodge in the house or take a meal therein, who have travelled at least seven miles from their previous night's place of lodging."

(*c*) "The Licensing Authority should have full discretion to withdraw the privilege of serving travellers during closing hours for any reason that may seem good to them."

(*d*) "Railway companies should be required to draw up regulations to be approved by the Board of Trade, limiting the hours of sale, both in their refreshment rooms and in their railway carriages. These regulations should include precautions against the indiscriminate sale of intoxicants at their stations."

Chapter XII. 6.

"The law as to *bona fide* travellers may be thus stated.

"'At any time during hours of closing the keeper of premises licensed for the 'on' consumption may sell to a *bona fide* traveller, but only for consumption on the premises.

"'The traveller before he can be constituted a *bona fide* traveller must have lodged during the preceding night at least three miles distant from the place where he asks for refreshment.

"'This however is not a sufficient qualification, for he may travel the required distance, and not thereby be constituted a *bona fide* traveller if he has travelled merely for the purpose of obtaining drink.

"'Persons arriving at or departing from railway stations may be served at the railway refreshment rooms, and persons who are lodging in a licensed house may be served therein."

"A very large amount of evidence was heard to the effect that the so-called *bona fide* traveller is a fraud and a nuisance, and deserving of no consideration whatever.

"There are however some *bona fide* travellers who may deserve consideration, though they are comparatively few in number. Probably the extension of cycling has increased their number."

Recommendation 23.

"The Licensing Authority should have power to grant six-day licenses either generally or by way of punishment for offences not deserving more serious notice."

Recommendation 24.

"Licensed premises should not be opened before 7 or 8 a.m."

Recommendation 25.

"The Licensing Authority should have discretion to make an order for closing in the evening two hours earlier than the present hours, such an order to remain in force for one year."

Chapter XII. (8).

"Conditions and habits are so various that it is not prudent to lay down an absolute limit without exceptions, and we recommend that the Licensing Authority should be invested with (the above) discretion.

Recommendation 26.

"The Licensing Authority should have power to order closing on election days."

Recommendation 29.

"Registered benefit societies should be forbidden to hold their meetings in public-houses."

Recommendtaion 30.

"Coroner's courts, petty sessional courts, revising barristers' courts, etc., should be completely dissociated from licensed premises by law."

Recommendation 32.

"The issue of music and dancing licenses to public-houses

should be entirely prohibited, and the consent of the Licensing Authority should be everywhere necessary before they are granted to hotels or restaurants."

Recommendation 33.

(*a*) " The trade in intoxicants should be forbidden to be carried on in the same premises as the trade in groceries or other articles."

(*b*) " In place of the present variety of 'off' licenses a consolidated license should be issued, under the full control of the Licensing Authority and for premises exclusively used for the sale of intoxicants."

(*c*) " A period of five years should be allowed to existing license holders to make arrangements for the change."

Recommendation 42.

(*a*) " Any person convicted ten times of any form of drunkenness within any period, and proved to be an habitual inebriate, should be treated under the Habitual Inebriates Act like a person convicted four times of drunkenness within a year."

(*b*) " Some scheme should be adopted, with proper safeguards, resembling those in force in the case of lunatics, by which habitual inebriates should be confined without their own consent."

Part IV. Clubs.

The Minority Recommendations regarding Clubs differ from those of the Majority chiefly in being fuller and more detailed.

(1) " All clubs in which intoxicants are supplied should be registered. No club or association with less than 25 members should be so registered.

" In any club which is not registered, what is now legally known as distribution should be regarded in law as a sale, and consumption or the presence of drinking utensils should be treated as evidence of sale.

"In all other respects such unregistered clubs would be subject to the same law as any shebeen."

(2) "Certain conditions should be laid down as necessary."

(1) The club must be a member's club The club property must be vested in all the members of the club, or in trustees on their behalf.

(2) The club must be under no kind of obligation to any wholesale dealer in liquor, and must not be on premises which have been used as a public-house or beer-house during the last five years.

(3) No one but the general body of members must be interested directly or indirectly in the sale of exciseables.

(4) All members must be elected by the whole club, or by the committee after nomination, and a certain interval of at least a week must elapse between nomination and election.

(5) The club must be under the complete control of the members generally, and the rules must be not altered except at a general meeting of the club.

(6) The rules must lay down :—

(*a*) That there should be regular meetings of the committee or governing body.

(*b*) Circumstances under which membership lapses.

(*c*) The amount of subscription.

(*d*) The hours of opening and closing.

(*e*) The objects for which the club is formed.

Application should be made on a form supplied by the registrar, by the committee, not less than five in number, of whom at least two must be householders. They must give the name and address of the club, and produce copies of the rules, and a list of members sufficient for publication, and also affidavits sworn by each member of the committee that these conditions are fulfilled.

The committee should be individually responsible for the conduct of the club, and individually liable in case of prosecution.

Any distribution of liquor for consumption off the premises should be deemed an illicit sale, and any visitor paying for exciseables should be subject to a penalty, as well as any person knowingly selling or sanctioning the sale.

(3) "The registrar should be the clerk of the peace in counties or the clerk of the peace, town clerk, or clerk to the justices, elsewhere; his functions would be purely ministerial."

(4) "On receiving an application for registration the registrar should give due public notice thereof as well as to the police, and unless anyone should make objection within 21 days thereafter, he should register the club.

"Objections should only be made on one or both of two grounds:—

(1) That the necessary conditions are not complied with;

(2) That the members of the committee are persons of known bad character.

"If such an objection is lodged, either on the first application being made or on any subsequent application for registration, a day should be appointed on which the objection may be heard before the recorder or a county court judge, or (in Scotland) the sheriff, and if the objection is upheld registration must be refused."

(5) "Every year a balance sheet of the club accounts properly audited should be forwarded to the registrar for publication, and every three months changes in the rules or in the list of members (if any) should be so notified."

(6) "Registration should be renewed annually on payment of the nominal fee, and it shall be regarded as a matter of course, provided that accounts are properly rendered and the necessary sworn affidavits sent in, unless objection is taken either as above described or on any of the following grounds:—

(*a*) That the club is a disorderly house.

(*b*) That it is used merely for drinking purposes.

(*c*) That it causes habitual drunkenness among its frequenters.

(*d*) That its rules are habitually broken.

"If objection be taken on any of these grounds within a specified time, it should be tried in the manner described, and on proof of the allegation the court should have power to inflict a fine or to cancel registration.

"The court should also have power in case of a suspected club to appoint a special officer to visit the club, inspect its books, etc., and report.

"We think it important that registration should only be refused on certain definite grounds after trial before a properly constituted judicial authority, to which no suspicion of partiality or bias can attach.

"This is no question of administration or of knowing the needs of the neighbourhood, and therefore we do not think it should come before the ordinary licensing authority.

Minority Report. Part V. Chapter 3.

Schemes of Popular Control.

"The schemes fall, generally, under two heads; those which propose control of the liquor traffic by direct popular vote in the direction of limitation or total prohibition of the public sale of intoxicants, or, to use a convenient term, by local veto; and those which propose to take the liquor traffic out of private hands and carry it on under the control of the local authority; there are various forms of the proposal, called by different names, but the term local management best describes their general principle."

Local Veto.

"It is not surprising that, in view of the dangers arising from the trade in intoxicants, some people despairing of any other remedy should wish to entirely prohibit it.

"But they recognise that universal prohibition is not in this country a question of practical politics, and they have accordingly fallen back on permissive prohibition in localities."

The following arguments are urged by the supporters of Local Veto :—

(1) That the drink evil is one of the most consuming evils in the country ; that no regulation of the drink traffic in any other way is or can be satisfactory.

(2) That a locality ought not to be saddled with the liquor traffic against its will.

(3) That no measure which is adopted to satisfy the public conscience and convenience can be a violation of individual liberty, and further that the individual would not be entitled to complain as there would be nothing to prevent his laying in a private store of liquor.

(4) That local option would only be an extension of the present system, which is already local and permissive, by associating the people with the Licensing Authority.

(5) That the people themselves would be the best judges of their own wants and necessities, which the licensing system is designed to meet.

(6) That if an inequality was created between rich and poor, inequality already existed, and in this case could not be complained of, because the poor would be the majority, and it would be of their own choosing.

(7) That if a strong majority were required to carry prohibition, public opinion would be strong enough to insure enforcement of the law ; and that if some violations of the law did occur these would be nothing compared with the great benefits that would arise from the general operation of the measure. Further that the largeness of the majority required would indicate such a state of public opinion as would be a safeguard against any fluctuations when the veto had once been adopted.

(8) That there is a strong demand for some measure of popular control, especially among the working classes who are more familiar with the evils aimed at.

(9) That even if local veto were not adopted, the fear of it would exercise a sobering and salutary effect upon the

license holders, and make them much more careful about permitting drunkenness, etc.

(10) That local option is the most prevalent system in all English-speaking countries, and has been found to be a success there, as well as in Scandinavia.

Local control in some form or other, including the power to prohibit, is the law in all the States of the U.S.A. except four. It is also the prevalent system over most of Canada, the Australian colonies, and in Norway and Sweden. It is argued that the system which has spread so far and been so long in existence cannot have been unsuccessful, since the people who live under it themselves approve it.

(11) That when local prohibition has been tried in districts in this country by the action of ground landlords it has proved a success, and if the ground landlord has this power, *a fortiori*, it ought to be possessed by the inhabitants themselves.

On the other hand it is urged :—

(1) That local veto would be an unwarrantable interference with the rights and liberties of individuals.

(2) That direct popular control is likely to be fluctuating and uncertain, liable to sudden waves of sentiment followed by violent reaction.

(3) That it would not be adopted in the places where it was most needed.

(4) That if it were adopted there would be a sufficient minority disposed and able to prevent its enforcement.

(5) That even a two-thirds majority of ratepayers would be quite insufficient, because the majority of those who use the public-houses and who would violate the law are not ratepayers.

(6) That the fear of it would drive the respectable publicans out of the trade, and leave the trade to be carried on by disreputable people, who would not scruple to encourage drunkenness, and that in case of a reaction from no

license to license, the state of things would be much worse than before.

(7) That it would only drive drinking inwards, out of places where it is under some control, into private houses, clubs, and shebeens, and that otherwise respectable persons would become breakers of the law and the respect for law would be generally broken down.

(8) That it would create great disturbances and ill-feeling at the recurring polls.

(9) That any failure to adopt it would dangerously discourage temperance efforts, and weaken the action of the existing law.

(10) That it has not been a success when tried.

(11) That there is no strong public opinion in favour of it, and to force on a measure too far in advance of public opinion would only damage the cause of temperance.

Conclusion. (*Local Veto.*) *Minority Report.*

"These arguments and counter arguments are based partly on first principles, partly on prophecy, and partly on experience.

"As for those based on experience, it is a mistake to suppose that any certain argument can be founded on the experience of other countries, even if it were possible to gauge accurately the truth among such a cloud of contradictory statements. But it is a remarkable fact that local option should so widely prevail in countries whose conditions may be very different.

"The undoubted success of experiments in local prohibition by ground landlords depends very much on the more absolute power which they possess to enforce observance of their wishes.

"A simple clause in a lease is a more effective weapon than any local veto law.

"And this points to the fact that the question is purely a practical one. First principles and arguments as to the liberty of the subject are in this connection out of place.

"In sparsely inhabited districts local prohibition could probably be enforced without much difficulty, but in towns, even where a strong public opinion existed, violation of the law might take place with injurious consequences.

"We have no evidence before us that public opinion in England, whatever it may be in Scotland and Wales, is at all strong enough to justify such a measure.

"We must recognise the fact that most people still regard alcoholic liquor as an ordinary article of diet, which is only harmful if taken in excess.

"It would be rash to predict the course of public opinion during the next decade; but since in any case local veto could not be tried until the seven years to be allowed for reduction had expired, it might be well to postpone any decision as to its adoption or otherwise until that period of transition has expired."

In another form for convenience of reference and in order to show how far the majority and minority were in agreement or differed, a synopsis might thus be stated:—

Majority and Minority Reports.

Part 1. England and Wales.
Part 2. Scotland.
Part 3. Ireland.
Part 4. Clubs.
Part. 5. General.

Part 1.

(1) The law should be consolidated and amplified (both).
(2) Number of licensed houses should be reduced.
(3) Tied-house system.
Agreements between owner and tenant should always be produced (both).
Power to refuse application (maj.).
Or to strike out provisions contrary to public policy, and render them *ipso facto* void (min.).

In the case of a "managed" house, owner to hold license, but manager's name to be registered (maj.).
Record of all breaches of the law to be kept, and produced whenever the license is dealt with (min.).

(4) Members of licensing authority should not be disqualified through holding shares in Railway Company owning licensed refreshment rooms or hotels (both).

(5) Same disqualification to apply to clerk as to members of licensing authority (both).

(6) Reasons for refusing to renew a license should be stated in open court, and if desired given in writing (maj.).

(7) Notice to licensing authority of all applications for new licenses should be required (both).

(8) Proper interval between grant and confirmation of new licenses, so that second hearing be a reality. All new licenses to require confirmation (both).

(9) Ante-1869 beer-houses to be brought under licensing authority (both).

(10) Transfers.
Temporary transfers only in case of death or bankruptcy (both) or illness (maj.).
Notice to the police in all cases (maj.).
Proper notice (min.).
Transfer applications made out in blank should be void (min.).
Transferor should be compelled to attend (both) when possible (maj.) and be examined on oath as to his reasons for leaving (min.).
Transferee should be examined as to his position and interest, and be prepared to (maj.) be made to (min.) produce his agreement.
Licensing authority to have power to make regulations against repeated applications for transfer (both).

(11) Annual licensing sessions to be in March (both).

(12) Minimum of £12 annual rateable value for public-house (both).
Licensed houses to be as open as possible to supervision,

from outside and inside. No connection with back courts or yards, or communication with dwelling of publican (min.).

(13) Plans for alterations or rebuilding of licensed premises to be submitted to Licensing Authority (both).
Licensing Authority to have full control over alterations (min.).

(14) Licensing Authority should have wide discretion as to imposing conditions (both) with power to refuse license, without appeal, on proof of breach (both).

(15) "Off" wine and spirit licenses should be subject to full control of Licensing Authority, as well as wholesale licenses for sale of wine, spirits, beer, and sweets, except those required by brewers, distillers, wine and spirit merchants, and blenders (both).

(16) Sale of liquor on passenger vessels (min.), passenger vessels plying between parts of the United Kingdom (maj.), and in theatres (both), should be brought under Licensing Authority.

(17) Reconstruction of Licensing Authority.
Licensing Authority to consist of 3, 6, or 9 members, selected triennially; two-thirds to be justices, nominated by the petty sessional or the borough justices; and one third to be nominated by the County Council or Town Council out of their respective bodies. The number in each case to be fixed by the Secretary of State (maj.).
From 6 to 10 members, elected half by the justices of the division from their own number, half by the County or Town Council. Election for period of three years (min.). Court of Appeal.
Justices, nominated triennially by the County and Borough Justices (maj.).
The members of the original licensing body sitting with a larger number of additional members, who should be in the proportion of two to three. The new element should be elected half by the Town or County Councils, half by the Borough or County Justices (min.).

(18) Licensing Authority to be liable for costs of an appeal (both).

(21) Power to impose Sunday Closing on a new license (maj.).

(22) Hours of opening on Sundays.

Except in London and principal cities, two hours at mid-day and two hours in afternoon (maj.).

Maximum one hour mid-day and two hours evening. Licensing Authority to have power to reduce, or close entirely (min.).

Frequenters of shebeens to be made liable to arrest (min.).

(23) *Bona fide* travellers.

Statutory distance should be six miles. Right to serve restricted to limited number of houses selected by Licensing Authority, and paying special duty for the privilege (maj.).

Travellers defined as persons about to lodge or to take a meal in house, having travelled at least seven miles from previous night's lodging. To be served only in hotels having a certain quota of bedrooms, and no public bar, specially licensed, or in houses licensed exclusively as restaurants, and only during certain hours (min.).

Board of Trade to approve special Railway Regulations, including precautions against indiscriminate sale of intoxicants at stations (min.).

Licensing Authority to have power to grant six-day licenses, either generally or by way of punishment for minor offences (min.).

(24) Occasional licenses to be granted only after notice to the police, and by two or more justices (maj.), members of the Licensing Committee (min.), and opportunity given for opponents to be heard (min.).

(25) Sale, either on or off, of intoxicants to children under 16 should be forbidden (both).

Penalties for serving children under age should be raised (both), and penalties imposed on those who knowingly send them (maj.).

(26) Coroner's courts and revising barristers' courts (both), and registered benefit societies (min.), should be dissociated from licensed premises by law.

(27) No licenses to common lodging houses (maj.).
Public-houses in sea ports should not be used as lodging houses for seamen (both).

(28) No public music or dancing should be permitted without a license from the Licensing Authority (maj.).
Music and dancing licenses to public-houses should be entirely prohibited, and they should be granted to hotels, and restaurants only with the consent of the Licensing Authority (min.).
Grocers' licenses should be done away with after five years and a consolidated " off-license " should take the place of the present variety (min.).

(29) Same disqualifications should apply to members of a Watch Committee as to Licensing Authority; and anyone acting as solicitor or valuer to a brewing company or trade organization should be disqualified (both).

(29b) Chief Constable should not be removable except with sanction of Secretary of State (both).

(30) Legal assistance should be provided for the police in proceedings under the licensing laws (both).

(31) A general course of instructions should be issued to the police as to dealing with drunkenness (maj.).

(32) There should be a general power of arrest for simple drunkenness, apart from disorder (both).

(33) No constable in uniform should be served with intoxicating liquor in a public-house (min.) without an order from a superior officer (maj.).
The practice of testimonials to retiring inspectors should be discontinued (min.), prohibited (maj.).

(34) Licensing Authority should have a certain number of officers of high rank as inspectors to report on the general condition of the houses (both).

(35) In some offences the penalty should be temporary suspension of the license instead of fine (both).

b. When a person is found drunk on licensed premises, or seen leaving them in drunken condition, it should be incumbent on the license holder to show that neither he nor his servants knew of the drunkenness, or knowingly permitted the drunken person to remain (both).

c. The police should have instructions to warn the license holder if a drunken person is seen to enter the premises (maj.).

d. In place of endorsement of license, a record of all convictions should be kept in the register, which should be produced before the Licensing Authority, and open to inspection for a trifling fee (both).

(36) A summary of legal regulations should be displayed in all public-houses (both).

(37) a. Drunkenness when in charge of a child of tender years should be punishable with a higher penalty than simple drunkenness (both).

b. Habitual drunkenness should be treated as cruelty within the meaning of the Summary Jurisdiction (Married Women) Act, 1895, and entitle the wife or husband to separation and protection for self and children (both).

(38) Habitual drunkards, defined by number of convictions, should be placed on black list, and publicans warned by police not to serve them.

Penalty for serving them knowingly (both).

Persons prohibited, after notice, should be liable to penalties for attempted evasion (maj.).

Some scheme should be adopted, with proper safeguards as in the case of lunatics, for compulsory confinement of habitual inebriates (min.).

Parts 2 and 3. Scotland and Ireland. Largely application of same provisions as in England.

Part 4. Clubs.

All clubs in which intoxicants are supplied should be registered (both).

The onus of proving *bona fides* should be placed on the clubs applying for registration (maj.).

No club to be registered with less than 25 members. In any unregistered club distribution to be regarded as a sale and consumption or presence of drinking utensils to be evidence of sale (min.).

Club property to be vested in all the members or in trustees, and no individual member to be directly interested in sale of exciseable liquor on premises.

Registering authority to examine the rules, and satisfy itself that the club is not formed solely for the sale and consumption of intoxicating liquors, and that some check is placed on election of members, privileges of honorary membership, and introduction of friends (maj.).

Minority report lays down conditions and rules in fuller detail.

Some additional requirements (min.).

No obligation to any wholesale dealer in liquor, nor on premises used as a public-house or beer-house during previous five years.

Committee to be individually responsible for conduct of the club, and individually liable in case of prosecution.

No sale for consumption off the club premises (both), nor to visitors, under penalty (min.).

No person under 18 to be admitted to a club in which intoxicants are sold (both).

Authority to grant certificates to clubs should be stipendiary magistrate, or court of petty sessions (maj.).

Registrar should be clerk of the peace, town clerk, or clerk to the justices.

On receiving an application he should give public notice and notice to the police, and if no objection made within 21 days should register.

Objections, if lodged, should be heard before Recorder of County Court Judge, and if upheld registration should be refused (min.).

Annual balance sheet and quarterly notification of changes

in the rules or list of members, if any, to be sent to Registrar (min.).

Registration to be renewed annually on payment of nominal fee, unless objection made and proved in court, on one of following grounds :—

That club is a disorderly house,
Is used merely for drinking purposes,
Causes habitual drunkenness among its frequenters,
Its rules are habitually broken (min.).

The Minority add,

" We think it important that registration should only be refused on certain definite grounds after trial before a properly constituted judicial authority, to which no suspicion of partiality or bias can attach. This is no question of administration or knowing the wants of the neighbourhood, and therefore we do not think it should come before the ordinary licensing authority."

Part 5. *General.*

(1) Areas of reduction of licensed houses, in England, to be counties and county boroughs (maj.).

(2) Authority to decide amount of reduction in counties to be the standing joint committee, in county boroughs a similar body to be constituted (maj.).

(3) Compensation.
Persons interested to declare value of license and goodwill. Licensing authority, if dissatisfied, to have value ascertained under Land Clauses Consolidation Act. Such value to be basis of special taxation on licenses not suppressed to form compensation fund, payable to those suppressed (maj.).

(4) Public-house and beer licenses and all off-licensed houses to contribute 6*s.* 8*d.* per £100 per annum.
Hotels and restaurants one-sixteenth of their annual rateable value.
Clubs to contribute.

Licensed premises when enlarged to pay an increased contribution (maj.).

(5) New licenses only to be granted when Licensing Authority has resolved that one or more is required within an area defined by them (maj.).

(6) Reduction, taxation, and compensation, to be worked in seven year periods, the authority having power to borrow at the beginning of such periods on security of income to be derived from above sources (maj.).

Minority.

No claim to compensation in strict justice, some allowance may be made as matter of grace and expediency. Compensation must not confer any kind of vested interest in licenses.

A statutory maximum of one on-licensed house to every 750 persons in towns, and every 400 in country, might be fixed as safeguard.

Reduction to statutory maximum to be effected within seven years.

Further reductions by Licensing Authorities after seven years to be without compensation.

According to the Hon. Sidney Peel,[1] "the lines of policy recommended for dealing with licensing reform may be summed up as follows:—

Reduce the number of licensed houses,
and settle the compensation question by a scheme extending over seven years, and postpone till the end of the period the more drastic proposals of local option and local management.

In the meantime
Reform the licensing authority both in the first instance and on appeal.

[1] *Practical Licensing Reform*, 1901, p. 119, by Hon. Sidney Peel.

Put all licenses on the same footing as regards the power of withdrawal, and improve the details of the licensing law.

Clip the wings of the tied-house system by a strong administration.

Prevent sale of intoxicants to children under 16.

Forbid the combination of the trade in liquor with that of groceries or other articles.

Shorten the hours of opening on weekdays and Sundays, and give the licensing authority discretion to reduce them still further.

Curtail the privileges of the *bona fide* traveller.

Purify the Watch Committees, and strengthen police inspection and administration.

Adopt such a scheme of club-registration as shall prevent the formation, and facilitate the suppression, of bogus or undesirable clubs, without injuring the good ones."

" The carrying out of these reforms will effect untold good, and will not stand in the way of eventually carrying more drastic reforms should these be found necessary.

" The evils of the liquor traffic are a great bundle of sticks, they are more easily broken one by one."

CHAPTER IX

THE ACTS OF 1902 AND 1904
1900–1908

LOCAL Veto Bills continued to be introduced at frequent intervals during the first decade of the new century, the mantle of Sir Wilfrid Lawson having apparently fallen upon Mr. Caine.

In 1902 one Bill was called " A Bill to enable localities by a direct veto to prevent the issue of licenses for the sale of intoxicating liquors."

The preamble of this Bill is typical of the language constantly used in the previous half century by advocates of prohibition.

" Whereas the common sale of intoxicating liquors is a fruitful source of crime, immorality, pauperism, disease, insanity and premature death, whereby not only the individuals who give way to drinking habits are plunged into misery, but grievous wrong is done to the persons and property of His Majesty's subjects at large, and the public rates and taxes are greatly augmented."

No one could deny that the abuse of intoxicating drinks is still an existing evil, and that drunkenness is a contributory cause of much unnecessary suffering and wretchedness, but it is worth noting that the more scientific attitude of modern investigators has considerably modified the view so constantly put forward in the name of temperance

reform, that drink is the almost exclusive cause of such ills as pauperism, insanity and crime.

The following quotations are from replies made by the heads of the Charity Organisation Societies in four of the chief cities of the United States, to a question on the causes of poverty and the relation borne to it by liquor.

They are reproduced in the *Economic and Moral Aspects of the Liquor Business*, by R. Bagnell, published in 1912.

Poverty and Drink.—" We do not attempt to give figures on the relation of drink to poverty. We know that liquor is a prolific cause of poverty, but many times poverty causes drink. There are so many other factors involved that with our present light accurate statistics are impossible."

New York.

" Innocent poverty with a long working day and insufficient food leads to drink, just as much as drink causes poverty."

Buffalo.

" I cannot say what proportion of poverty is directly due to drink, or indirectly so ; the causes of poverty are in fact so complicated that it is frequently difficult to tell whether drink itself is the cause or the effect."

Baltimore.

" The Charity Societies of the country have pretty largely given up labelling the causes of poverty. We have learned modesty, and realise that it takes a more omniscient eye than that possessed by any human being to assign causes."

Boston.

With regard to the relation of Insanity to Drink an

interesting Report was presented to Parliament in 1906, drawn up by Mr. Braithwaite, who had been an inspector under the Inebriates Act from 1879 to 1900.

In the course of it he says :—

Insanity and Drink.—" I am satisfied that the majority of our insane inebriates have become alcoholic because of congenital defect or tendency to insanity, not insane as the result of alcoholism, and that the drunkenness which preceded alcoholic insanity was merely the herald—the obvious sign—of incipient mental disorder. In relation to the final insanity, drunkenness is the intensifier perhaps, but not the cause of the disease."

Again in the matter of crime there has been exaggeration. In 1905 the Rev. J. C. Robinson conducted a mission among the convicts at Dartmoor, and wrote a report on his experience.

Crime and Drink.—" The deepest impression," he says, " that I have brought away from Dartmoor is that drink is not responsible for the serious crimes to anything like the extent some people imagine. I was surprised at the discovery. Drink and crime have been so long associated in the public mind that I confess, as a teetotaller, I held the common opinion myself.

" It is so easy to generalise and say drink is the cause of nearly all crimes. Many of the men undergoing the long sentences I found had been lifelong teetotallers. Some of the worst offences had been committed by teetotallers.

" It is an obvious deduction, that teetotallism, whatever its undeniably good effects on so many people, must not be regarded, as some of its extreme adherents regard it, as a sufficient safeguard in itself against crime.

" Some of my friends may not like this frank admission but I speak of what I found at Dartmoor."[1]

The first instalment of legislation that was based upon the findings of the Royal Commission of 1896-9 was the Licensing Act of 1902, entitled: " An Act to amend the Law relating to the Sale of Intoxicating Liquors and to Drunkenness, and to provide for the Registration of Clubs."

As originally introduced this Bill contained provisions for the abolition of Grocers' licenses, but this part of it was dropped. Its recommendation by the Commission was largely due to the fact that it was one of the few things desired both by the Trade and the Teetotallers, whose representatives between them constituted the bulk of the Commission, the Trade desiring to bring back to the public-houses the retail trade in bottled spirits which had been built up by the grocers, and the Teetotallers being ready to abolish any kind of license. The arguments against the abolition were threefold, the injustice to the grocers, who for forty years had been allowed to carry on this business and had done so without offence; the cost of compensating them; and the undoubted fact that a large class of people preferred not to have to go or send to a public-house for their domestic supplies, for which the licensed grocer had become a real convenience.

The Act as passed consisted of three parts.

Part 1. In " Amendment of Law as to Drunkenness,"

it authorised the apprehension of a person found drunk and incapable in a public place although he was not also riotous or disorderly;

imposed a penalty for being drunk in charge of a child;

[1] Quoted by Mr. E. A. Pratt in *The Licensed Trade*, pp. 41-2.

empowered the court to require from a person convicted of drunkenness security for good behaviour;

gave protection for the wife or husband of a habitual drunkard;

prohibited the sale of liquor to persons declared to be habitual drunkards;

and imposed a penalty for procuring drink for a drunken person.

Part 2. In "Amendment of Licensing Law,"

it ordered a record to be entered in the Register of Licenses of every conviction of a licensed person;

gave the Justices some additional powers in regard to "off" licenses;

empowered them to require the deposit of a plan of any proposed alterations to licensed premises;

removed the disqualification of Justices interested in railways;

prohibited Justices' clerks from acting professionally in respect of any licensing applications;

fixed the date of the annual Licensing Meeting to be within the first 14 days of February;

ordered the attendance of the transferor and the proposed transferee on applications for transfer, and the production of the agreement;

interposed a delay of 21 days between the grant and confirmation of a license, and

forbade the holding of petty or special sessions on licensed premises, and of coroners' inquests if other suitable premises had been provided.

The whole of this Part of the Act was repealed, and most of it was re-enacted by the Licensing (Consolidation) Act of 1910.

Part 3. "Registration of Clubs," was also superseded by the Consolidating Act of 1910, which re-enacted most of its provisions.

The 1902 Act for the first time required the registration of "every club which occupied a house or part of a house or other premises, habitually used for the purposes of a club, in which any intoxicating liquor is supplied to members or their guests."

The Register of all such clubs in his division was to be kept by the clerk to the Justices.

The form of the register, to be prescribed by the Secretary of State, was to contain

(a) The name and objects of the club.
(b) The address.
(c) The name of the secretary.
(d) The number of members.
(e) The rules relating to :—
    (1) The election of members and admission of temporary and honorary members and guests.
    (2) The terms of subscription and entrance fee, if any.
    (3) The cessation of membership.
    (4) The hours of opening and closing.
    (5) The mode of altering the rules.

Statutory grounds were laid down on which a court of summary jurisdiction might strike a club off the register.

Further changes of importance in regard to registered clubs have been made comparatively lately by the Licensing Act of 1921 ; e.g. in the limitation of hours during which intoxicating liquors may be supplied to members or their guests.

In February, 1903, the attention of the Home Secretary

was drawn to the fact that justices in various parts of the country were refusing to renew licenses to a considerable number of houses against which no complaint had been made of misconduct, and pressure was put upon him both then and later to hasten the introduction of a measure providing for compensation in such cases. In the sessions of 1903, 639 licenses were refused as against an average of 189 for the five previous years. In April of that year a Compensation Bill was brought in by a private member, Mr. J. G. Butcher (now Lord Danesfort), and in spite of the teetotal opposition and the re-iterated quoting of " Sharpe v. Wakefield," it passed its second reading by the large majority of 266 to 133. This revealed the widespread feeling that the strict letter of the law dealt very harshly with the license-holder, and left him at the mercy of a bench of magistrates on which the temperance party was strongly represented, and so paved the way for the introduction of a Government Bill in the following year.

Their Bill was introduced in April, 1904, by the Home Secretary, Mr. Akers Douglas, and was described as " An Act to amend the law in respect to the extinction of licenses and the grant of new licenses."

The Home Secretary pointed out that there had already been a steady reduction in the number of licenses during the past twenty years, viz.—from 1 to 242 of the population in 1881 to 1 to 331 in 1902, but that it was still agreed by all parties and recommended by both Reports of the Royal Commission that a considerable further reduction was desirable. Opinions differed as to whether a reduction of the number of public-houses would necessarily mean a diminution of drunkenness, but it would at all events facilitate police supervision, and reduce that excessive

competition between licensed houses which tended to illegitimate means of increasing profits.

The action of certain brewster sessions during the past two years had been precipitate, and without due regard to the hardships which had been inflicted.

In the course of the debate on the First Reading, the Prime Minister, Mr Balfour, said: "You will never get rid of the public-house from this country, and, I frankly admit it, I do not think you ought to get rid of it. What then should you aim at? Surely at this ideal, that the public-house should be kept respectably, should be kept by respectable persons, and should be kept in such a manner as will make those who frequent it obey the law and conform to the dictates of morality; a difficult ideal to attain, but one which never seems to occur to a certain class of temperance reformer. Their one desire appears to be to render the tenure of the publican insecure. How can you expect the trade which you deliberately intend to make insecure to be filled by men of the character I have just endeavoured to describe?"

Three arguments which the Prime Minister put forward in favour of the Bill were:

For the first time since 1869 it will be possible to deal with the beer-houses without inflicting hardship on individuals.

It will prevent monopoly values growing up in new districts under new licenses.

It will enable magistrates sitting in Quarter Sessions to deal with licenses which their sense of justice now absolutely prevents them from touching.

The two main provisions of the Licensing Act of 1904 as finally enacted were:—

To guard against existing "on" licenses being taken away on other grounds than misconduct without compensation, the compensation being raised by the Trade itself, and

To empower justices, in granting new licenses to attach conditions to the grant.

Clause 1 referred to Quarter Sessions all questions as to the renewal of licenses when the proposed grounds for refusing renewal were other than those of misconduct, structural unsuitability, or unfitness of the proposed licensee.

Clause 2 provided for the payment of compensation on the non-renewal of a license, the amount being the difference between the value of the licensed premises under the conditions in force immediately before the passing of the Act, and the value of the premises if they were not licensed.

The compensation was to be provided among the persons interested in the licensed premises, including the holder of the license, in such shares as might be determined by Quarter Sessions, provided that in the case of the license-holder regard was to be had not only to his legal interest, but also to his conduct and the length of time during which he had been the holder of the license.

Clause 3 laid down the financial arrangements. Quarter Sessions were to impose each year on all existing "on" licenses charges not exceeding those in the Schedule to the Act, and graduated in the same proportions, unless they certified to the Secretary of State that it was unnecessary to do so in any year.

There were two schedules appended, one giving a

scale of maximum charges that might be levied as publican's license duty, ranging from £1 per annum when the annual value of the premises was under £15, to £100 per annum when the annual value was £900, or over, and the other giving a scale of deductions from rent permitted to a license-holder who either paid a charge under the Act or from whose rent a deduction was made in respect of such a charge.

Clause 4 transferred the confirmation of new licenses to Quarter Sessions, and gave permission to attach to the grant of a new license conditions as to the payments to be made, and as to the tenure of the license, e.g. it might be for a term not exceeding seven years instead of annual, such conditions to be those which the justices, having regard to proper provision for suitable premises and good management, should think best adapted to secure to the public any monopoly value, i.e. any additional capital value, which in the opinion of the justices would accrue to the premises through being licensed. The amount of any payment so imposed was not to exceed the amount thus required to secure the monopoly value.

It may be noted that this important Clause 4 introduced monopoly value to licensing legislation, a principle on which many words have since been spoken and written.

Between 1904 and 1927 under this Act the number of on-licenses has been reduced from a little over 100,000 to a little under 80,000, while the population during the same period has increased by some

15 per cent. but there has been a steady increase in the number of clubs from 7,400 in 1904 to 12,500 in 1927. It is possible that the reduction of on-licenses has been overdone and at a large county licensing bench the Chairman of the Fairhew bench, in the County of Hampshire, stated that in regard to the redundancy question the bench had not sent up any license for two or three years because they had noticed that whenever a license was taken away in a very short time the premises were opened as a club over which the bench and the police had no actual control. They have also complained that there has been no reduction in license duties in spite of the reduction of licensed hours.

In 1908 what was known as the Children Act was passed, imposing a penalty for giving intoxicating liquor to a child under the age of five years except on the order of a doctor or in a case of emergency, and ordering the exclusion of children (under the age of 14) from the bar of licensed premises except during closing hours.

CHAPTER X

CONSOLIDATION
1908–1910

IN February, 1908, Mr. Asquith, as Chancellor of the Exchequer, brought in a Licensing Bill, which he described as having two main purposes, namely, "an immediate and progressive reduction in the excessive facilities which are now allowed for the sale of intoxicating drinks," and "the gradual, but complete, recovery, with due regards for existing interests, by the State of its dominion over, and its property in, a monopoly which has been improvidently allowed to slide out of its control."

The reference in the last phrase was to the Act of 1904, which for the first time enacted a scale of compensation for the loss of licenses which were extinguished for reasons other than misconduct, and legally recognised the licensee's expectation of renewal as having acquired by long custom a monetary value.

The new Bill provided for the statutory reduction of the number of "on" licenses to a scale ranging from one for every four hundred of population in rural districts where there were not more than two persons per acre, up to one for every thousand when the population exceeded two hundred per acre. This reduction was to be "reasonably distributed" over a period of fourteen years, though the justices were allowed a discretion enabling them to extinguish licenses more rapidly, subject to the provisions

for compensation. After the fifteenth year all payment of compensation was to cease, and every subsequent application for a renewal was to be treated as an application for a new license altogether. The compensation fund was to be obtained, as under the 1904 Act, by a levy on the trade itself, with this important difference, that the extinction of licenses under the 1904 Act tended to enhance the value of those that remained, while under the new proposal of a time-limit the value of the licenses would steadily decrease, and those that paid the levy longest would receive the least return.

The Bill occupied a great deal of time in the House of Commons and in Committee, and by repeated application of the Closure, was passed through its second and third Reading, but was finally rejected by the House of Lords after a three days' debate. The rejecting Amendment moved by the Marquis of Lansdowne, was:

"That this House, while ready to consider favourably any Amendments which experience has shown to be necessary in the law regulating the sale of intoxicating liquors, declines to proceed further with a measure which, without materially advancing the cause of temperance, would occasion grave inconvenience to many of His Majesty's subjects, and violate every principle of equity in its dealings with the numerous classes whose interests will be affected by the Bill."

The main points put forward by Lord Lansdowne as reasons for rejecting the Bill were:

(1) That it was in no real sense a Temperance measure;
It dealt almost exclusively with the reduction of the number of public-houses, which was already proceeding at a reasonable rate under the 1904 Act;

It did nothing to promote better and more humanised public-houses, or to encourage the use of lighter and less deleterious drinks, or to make possible reasonable recreation ;

It would have the effect of placing clubs in an even more unfairly privileged position compared with public-houses than that which they enjoyed already, although clubs contributed far more than public-houses to intemperance ;

(2) That the proposed national sale of licenses to population took too little account of local conditions, and would especially be a great hardship to sparsely populated rural districts ;

(3) That the proposed Licensing Commission to supersede the Justices was quite unnecessary, and that too many of such special tribunals were being created by the Legislature ;

(4) That the compensation to be given under the Bill to license-holders was totally inadequate, both in the case of those whose licenses would be suppressed, and of those whose licenses would survive, and that something like 80 per cent. of the value of their interest would be destroyed ;

(5) That an immense number of innocent investors in a perfectly legitimate business would be deprived of a large proportion of their property ;

(6) That it was impossible to amend the Bill in detail, because the House was in disagreement with its fundamental principles.

On the subject of drinking clubs, Lord Halifax quoted the words of a devoted worker among the mining populations in the North of England, who was well known to him : " I am most sincerely anxious that this Licensing Bill shall not pass. A well-managed public-house is distinctly to the advantage of the population among whom I work.

It is the clubs that are the curse of my people, and these clubs are largely increasing I am quite satisfied that the effect of this Bill will not be to promote temperance, but it will be to promote those clubs which are the source of every sort of evil-drinking and every kind of mischief." Lord Halifax added, " My Lords, I know that man is right."

In the same year Mr. Herbert Gladstone introduced a much-needed Licensing (Consolidation) Bill, which however was withdrawn before it reached its second Reading.

It was re-introduced in 1910 by Mr. (afterwards Sir John) Simon, and after passing through a Committee of the two Houses, became law in August as the Licensing (Consolidation) Act of 1910.

This Act repealed and replaced practically all the Licensing legislation affecting England and Wales from 1828 to 1906, with the exception of certain sections relating to Excise Licenses. In the main it reproduced the existing law in a simplified form ; but a few changes were introduced, notably that the renewal of a license could only be granted where a license was actually in force at the time of application, otherwise the application must be treated as one for a new license. The powers of the borough licensing committees in county boroughs were somewhat extended, and the Act also legalised the granting of transfers and special removals at the general annual licensing sessions, instead of only at special transfer sessions. It also defined more clearly certain terms ; so that a " transfer " now means a change in the person of the licensee, but not a change of house ; a " removal " means the withdrawal of a license from one house, and its grant to another ; while a " special removal " means the substitution of new premises for old under the same license for certain special

reasons, such as that the old premises have been occupied for public purposes, or have been destroyed by fire.

The year 1910 was also marked by a new classification of the various Excise licenses imposed on alcoholic drinks, and by a considerable increase in the amount of the duties.

Excise licenses, as re-arranged by the Finance Act of 1909–10 are divided into those payable by manufacturers, whether of spirits, beer, or sweets ; by wholesale dealers in spirits, beer, wine, or sweets ; and by retailers, whether for " on " or " off " consumption, for whom the publican's license, covering spirits, equals half the annual value of the licensed premises, and the beer-house keeper's equals one-third, though in both cases there is a minimum duty depending upon population ; there are also special scales for hotels and restaurants, for passenger vessels, railway refreshment rooms, theatre and other places of entertainment, and for " occasional licenses."

The 1910 classification of Excise licenses still remains in force, but since the war the various duties on alcoholic drinks have been further greatly increased, chiefly by the Finance Act of 1919.

CHAPTER IX

THE WAR AND D.O.R.A. 1914–1918

THE war of 1914–18 necessitated special legislative measures dealing with the sale of intoxicating drinks in several European countries, and in Great Britain especially it resulted in the adoption of drastic methods of control, and the trial of entirely new experiments.

The subject of wartime restriction and experience has been so exhaustively examined by Dr. Arthur Shadwell in his book *Drink in* 1914–22, published in 1923, and by Rev. Henry Carter in *The Control of the Drink Trade in Britain*, published in 1918, that brief allusion only need be made. The expressed purpose of the latter book is to describe the action of the State respecting the Drink Trade in the Great War, alike in legislation and administration, and is chiefly concerned with the work of the Central Control Board (Liquor Traffic) since the Board was created in the summer of 1915.

Control began with a regulation under the first Defence of the Realm Act, 1914, which forbade the making of soldiers or sailors drunk while they were engaged in the defence of railways, docks, or harbours; but it was soon thought to be advisable to carry restriction into civilian life, especially in industrial areas, where over-indulgence was alleged to cause loss of time or lowering of efficiency and to affect the making of munitions. As time passed,

it became also more and more necessary to obtain economy, both in food material and expenditure.

The Temporary Restriction Act of 1914 empowered Licensing Justices to alter and restrict the hours of sale within their respective areas, subject to the proviso that any order to close licensed premises at an earlier hour than 9 p.m. must have the approval of the Home Secretary ; and by the end of the year these powers had been exercised in more than four hundred licensing districts in England and Wales out of a total of a thousand.

The Defence of the Realm (Amendment) No. 3 Act, 1915, called into being what was practically a new Government Department, known as the Central Control Board (Liquor Traffic), and endowed it with far-reaching powers. The exercise of these powers was to be confined to such areas as the Board should think fit to bring within their jurisdiction, and they began by taking over the seaports and the main shipping and ship-building centres. It was soon found that the movement of labour to new places like Gretna, or to extended factories, like Coventry, with the incursion of unskilled or half-skilled men and large number of women, necessitated extension. " Shortage of labour," reported investigators on the Tyne, " has led to the employment of men, who would not in ordinary times be given employment, and no doubt they are more likely to take to drink than the regular workmen." Gradually the Board extended their control to other areas, until by the end of 1916 practically the whole of Great Britain, with the exception of a few purely agricultural districts, was subject to this specially constituted Board. Out of a population of forty-one millions about thirty-eight millions were living under the new system.

The most important of the powers vested in the Central Control Board were the following:

To close any licensed premises or club;
To regulate hours of sale in both licensed premises and clubs;
To prohibit the sale of any specified class or description of intoxicating liquor;
To impose special conditions of sale;
To regulate the movement of intoxicating liquor from one area to another;
To supervise the conduct of licensed premises;
To prohibit the sale of liquor except by themselves;
To prohibit treating;
To establish refreshment rooms either for the public generally or for special industries;
To acquire premises, whether licensed or otherwise;
To acquire businesses, including stock-in-trade;
To carry on the sale of intoxicating liquor independently of the licensing laws;
To provide entertainment and recreation in conjunction with the supply of intoxicating liquors;
To provide postal and banking facilities in or near their premises;
To dilute spirits below the requirements of the Sale of Food and Drugs Act, 1879;
To suspend existing licenses;
To authorise the granting of excise licenses;
To inspect licensed premises and clubs.

From the decisions of the Board within their areas there was no appeal.

These powers were not all exercised together; but one of the earliest of the Board's regulations, which they enforced generally throughout their areas, was a drastic curtailment of the hours during which drink might be supplied. From seventeen hours out of the twenty-four,

or in London from nineteen and a half hours, during which licensed premises had previously been permitted to do business, the Board at one stroke restricted the sale of alcoholic liquor to five and a half hours for consumption on the premises, namely from 12 noon to 2.30 p.m., and from 6 or 6.30 p.m. to 9 or 9.30 p.m., and for consumption off the premises to four and a half hours only. This regulation stopped all morning drinking in public-houses, and greatly diminished evening drinking, while the interruption of hours in the afternoon prevented long-continued "soaking."

One of the greatest innovations carried out by the Board under the provisions of the Act was the treatment of clubs, in the matter of permitted hours, on exactly the same footing as public houses.

Certain modifications of these hours were allowed in special districts where there was much night work and work in the early morning, as near the docks and the large London food markets; and a distinction was recognised between public house bars, which had to close punctually on time, and places where meals were consumed, in which an additional half-hour was allowed to finish drinks already served. Residents in hotels and clubs might consume drinks at any time, but could only purchase them in the permitted hours.

Another measure taken by the Board was the increased dilution of all spirits. Under the Sale of Food and Drugs Act, gin might be diluted to 35 degrees "under proof" and other spirits to 25. The Board by successive stages extended these limits to a compulsory dilution of all spirits to 30 degrees under proof, and a permitted dilution to as much as 50.

They also prohbiited canvassing for orders, taking payment for liquors on delivery at people's houses, treating (except at meals), supply of liquor on credit, and the practice known as the " long pull," which consisted in attracting custom by serving more beer than was ordered.

Apart from merely restrictive measures, the Board made two experiments of a definitely constructive character.

One was the organising of meals in connection with the sale of drink. The provision of satisfactory meals for munition workers was an important problem in itself, with a direct bearing on their industrial efficiency. The Central Board tried two main lines of experiment in this connection, namely the encouragement of an increased supply of meals in public houses, and the establishment of canteens. Except in special districts, such as the immediate neighbourhood of large works and docks, and in the business centres of large towns, the progress made in supplying meals in public houses was disappointing. In many houses it was exceedingly well done, but in many others there was absolutely no demand for it; and the canteen system, whether the canteens were established by employers, by voluntary agencies, or by the Board itself, proved much more efficacious.

The other great experiment of the Central Control Board during the war is still in operation, and is commonly known as the Carlisle scheme.

In three districts, namely Enfield Lock near London, at Invergordon and Cromarty in North-East Scotland, and at Gretna and Carlisle in the neighbourhood of the Scottish border, the Board exercised its powers of purchasing and carrying on the trade itself, under special conditions

of exemption from the licensing laws enforced throughout the country.

The Central Control Board itself was abolished in 1921, but the properties which it had acquired were transferred to the Home Secretary and the Secretary of State for Scotland, so that in Carlisle, Gretna, and Cromarty, the supply of intoxicating liquor is still carried on under a system of direct State Management. The Enfield property was disposed of in 1923. The experiment in the Carlisle area has attracted most attention, and was carefully considered in 1927 by the Parliamentary Committee on Disinterested Management of public houses, presided over by Lord Southborough.

In the Carlisle area the Board acquired the five local breweries, with all the public houses which they owned. In the city of Carlisle it obtained a virtual monopoly of the sale of liquor, in the surrounding district it remained in competition with private enterprise, with certain factors in its favour, such as absence of licensing authorities, a free hand in alterations, and absence of competition which private enterprise could not command. It closed four of the breweries and retained the other for the brewing of beer for the Carlisle and Gretna districts.

The main features of the Board's policy were the reduction of the number of public houses, the improvement of the others both from the point of view of customers' convenience and of facilities for supervision, the provision of ample air, space, light, and seating accommodation, the provision of meals, and of music and other recreations, and in some cases of separate rooms for women, the latter being a policy which has been much criticised. The Board's apparent success in Carlisle was doubtless largely

due to the removal of the constructural workers, amongst whom were some of the heaviest drinkers, the shorter hours of sale, the expense and weakness of liquors, and later, the prevailing depression in trade.

Dr. Shadwell's conclusions from the war-time experience generally may be summed up as follows :

1. Excessive drinking was found to interfere with both industrial and military efficiency; and although the extent of such interference was exaggerated by those who advocated extreme measures, it did constitute a real danger. The two existing grounds for legislative action, namely public health and public order, were re-inforced by a third one, public safety.
2. The measures of control were effective, because the community acquiesced in them, as they would never have acquiesced in the extreme proposals of suppression.
3. The really effective measures of control were :—
   (*a*) Curtailment of hours.
   (*b*) Limitation of Supply and Diminution of Strength.
   (*c*) Raised Prices.
4. (*a*) and (*c*) remain the most effective measures of combating intemperance in Peace time, provided they are not carried beyond the limit which the community will accept, otherwise they provoke re-action and illicit drinking.
5. Three reasons why compulsory measures for the suppression of excessive drinking invariably defeat their object when they are pushed too far, are that :—
   (*a*) Alcoholic drink can be very easily produced.
   (*b*) Illicit sale of liquor is very lucrative.
   (*c*) Society refuses to regard drinking as a crime.
6. The reduction of hours and their midday interruption are a permanent gain, which ought to be retained.
7. The improved type of public-house, recognised and encouraged by the war-time experiments at Carlisle and elsewhere, is widely supplanting the attraction of the

mere drinking shop or bar, especially among the younger generation.

8. There is still room for a further re-classification of licensed premises, as for instance into Hotels, Restaurants, Clubs, Bars, and Off-sale establishments.
   e.g. Ten p.m. is quite late enough for bars, but not for restaurants; recognition of this would obviate present absurd anomalies, such as different hours on opposite sides of a street.

In reference to these years Mr. Carter remarks "The best refutation of a suggestion" that gross alcoholic indulgence was characteristic of the mass of war workers "was the immensity of the output of stores of war. Unless the majority of the workers had been temperate, the vast and ceaseless volume of material could not have sustained the forces on land and sea," and he sums up the evidence under headings. "The truth was this:

(1) In certain trades in which the maximum output was requisite for national reasons, there was an habitually intemperate minority.

(2) The incursion of casual labour and the enlargement of spending power tended to increase this minority.

(3) So interdependent is labour that the drunkenness of a few did, in point of fact, delay the work of many.

(4) In the vitally important sea transport trades, there was an old tradition of heavy drinking, hard to break, and hostile to speed and efficiency.

(5) Habitual indulgences in liquor, which stopped short of open drunkenness, could seriously impair efficiency; and

(6) The social environment of war-workers was often so harsh and unfavouring as to constitute an incentive to public-house frequenting."

At a later page he quotes another writer who states, "Of all the Acts of the Control Board, it is questionable

whether any won such wide assent from the best critics as the decision to declare illegal the treating of another to liquor."

These headings mention or imply most of the causes of excessive drinking; unpleasant surroundings, poor food, and bad homes; high and unexpected earnings; treating and example, lack of education and other interests; a minority, in the interlocking of industries and processes, holding idle or party idle other workers, and, in war, overstrain, staleness, weariness and anxiety, both in men and women, leading to an "industrial anæsthetic." It may be remarked that treating is one of the oldest customs of the country, and akin to the Scot-ale, or sharing of the price of ale (from the Saxon word "sceat," or part) at gatherings where the persons present shared the expense, and also were practically obliged to drink.

CHAPTER XII.

THE ACT OF 1921
1921–1928

IN the days that have succeeded the War, the most important legislation, in England and Wales, apart from that embodied in Finance Acts, has been the Licensing Act of 1921.

Under this Act the hours during which intoxicating liquor might be sold or supplied for consumption either "on" or "off" whether in licensed premises or clubs, were limited to nine in the metropolis and eight (or eight and a half) elsewhere on weekdays, and to five on Sundays, Christmas Day and Good Friday, except in Wales and Monmouthshire, where there was no Sunday opening. These hours must be between 11 a.m. and 11 p.m. in London, and between 9 a.m. and 10 p.m. (or 10.30 p.m.) elsewhere, and must allow for an interval of not less than two hours in the afternoon. Within these limits the justices must fix the actual "permitted hours" of sale or supply, and are allowed a certain discretion in regard to the granting of extensions to places where drink is consumed only with meals. An important change in the law, brought about by Scetion 6 of the 1921 Act, and by the repeal of the corresponding Section of the Act of 1910, is that there are no longer any statutory "closing hours" for licensed premises. So long as they observe the regulations as to sale of intoxicating liquors, they are permitted to keep open, if they so desire, during any hours of day and night.

Statutory " closing hours " have been replaced by statutory " permitted hours " for the sale of intoxicating drinks. This enables a public house to serve teas during the afternoon interval between permitted hours, and a licensed restaurant to keep open all night, and to serve breakfasts in the morning.

During 1922 one Local Veto and two Local Option bills were introduced in the House of Commons by private members, none of which reached a Second Reading.

The Local Veto Bill was sponsored by Mr. Raffan, and proposed to enable Parliamentary electors in prescribed areas to prohibit the common sale or supply of intoxicating liquors altogether.

Lady Astor's Liquor (Popular Control) Bill offered three alternatives, to be periodically decided in boroughs and counties by a poll of the electors, namely :

1. No change in the Licensing arrangements ;
2. A re-organisation of the Liquor Trade under a Board of Management approved by Parliament ;
3. No licenses.

Profits from the sale of liquor in re-organised areas were to be added to the Central Compensation Fund, raised by an increased trade levy, and available for paying compensation in no-license areas.

The third Bill, presented by Mr. Broad, was called the Temperance (England) Bill, and was on similar lines to Lady Astor's, except that the alternative between " no change " and " no license " was " limitation " instead of " re-organisation," and that a vote was to be taken on Sunday Closing in each area as a separate question.

In April, 1923, a National Prohibition Bill was introduced

by Mr. Scrimgeour, member for Dundee, but was thrown out on Second Reading by a vote of 236 to 14. The debate was notable for the number of stories told both for and against prohibition by members who had been to the United States, and also for the very contradictory statements made by medical members about the physiological effects of moderate consumption of alcoholic drinks.

In 1924 Mr. Leif Jones was responsible for a Liquor Traffic (Local Option) England and Wales Bill, in which the alternatives were " no change " and " no license " only.

Two subjects which have come under Parliamentary discussion on several occasions since 1921 are the " improved public-house " and a greater uniformity of the permitted hours of sale.

The Carlisle experiment of State control has in a measure endorsed the contention, long since put forward and largely practiced by many leading brewers, that greater comfort in a public-house, the adequate supply of seats and tables, and facilities for recreation and entertainment, do not tend to increase habits of excessive drinking; and has thereby strengthened the position of those brewing firms whose efforts to modernise and improve their public-houses have frequently been discouraged by the Licensing Authority.

On March 22nd, 1923, the question was asked by Mr Willey, " Whether the Home Secretary was aware that difficulties in the way of remodelling licensed houses were constantly raised by licensing magistrates opposed to the sale of liquor on principle and without any regard for public advantage or convenience "; and two years later, on March 19th, 1925, the Home Secretary, speaking of the Carlisle area, said, " The progressive improvement

of public-houses is an essential element in the general policy of the undertaking."

In February, 1924, a Public-house Improvement Bill was introduced in the House of Lords which endeavoured to give a legal significance to the term "improved public-house," by providing for the issue of a special certificate by the Licensing Justices exempting "improved public-houses" from the necessity for obtaining separate licenses for musical entertainments and dancing on the premises.

The Licensing Justices were not to refuse the grant of such certificates merely on the ground that proposed alterations to the premises would give increased accommodation or facilities.

The proposed qualifications for such a certificate were that the licensed premises were 'suitable and intended to be used as houses of general public refreshment and entertainment, including food and beverages other than excisable liquors,' that they were 'airy, commodious, and comfortable, and had adequate seating and sanitary accommodation.'

Similar bills have been since introduced in the House of Commons by Sir Herbert Nield and by Col. Fremantle

None of these bills has become law, but their introduction has helped to ventilate the subject, and while there are still Licensing benches dominated by prohibitionists who are averse to any public-house improvements, and only want to get rid of the sale of liquor altogether, there are others who have taken a different view, and have insisted that all new public-houses in surburban housing districts shall be of the "improved" type, and shall even provide adequately for open-air recreation in their grounds. The leading brewery companies have been

glad to re-model and improve their public-houses where permission has been granted, and there are now man excellent examples of the "improved public-house" in congested areas, like Camberwell and the Waterloo Road in London, as well as in more favoured suburban districts, such as those in the neighbourhood of Leeds.

Akin to the movement in favour of privileged treatment for those public-houses which are certified as "improved," is the claim for differential treatment of hotels and restaurants. In February, 1926, Mr. Remer brought in a Bill which provided for a separate license for *bona fide* hotels and restaurants, to take the place of the annual public-house license. Once granted, this license was not to be subject to annual renewal, nor was it to be revocable at all except on proof that the premises were no longer suitable for their purpose, or that they were being improperly conducted. Hotels and restaurants holding this special license were also to be exempted from payment of the compensation levy.

The permitted hours of sale are at present fixed by the licensing justices in each area, subject to certain statutory limits laid down by the Act of 1921. For instance, in London the Statute permits a total of nine hours, which must be between 11 a.m. and 11 p.m., and must allow for a break of at least two hours in the afternoon. The afternoon break is generally accepted as one of the most satisfactory survivals of the war-time restrictions; but the right of each metropolitan borough to fix separate hours in the evening is productive of an absurd situation. There are numbers of streets in London, of which Oxford Street is a well-known example, which are the boundaries between different boroughs; and in consequence it is

frequently legal to buy a drink on one side of a street for half an hour or an hour after it has become illegal on the other. The attention of the Home Secretary has been drawn to this anomaly, and at least three bills have been brought in by private members for the purpose of remedying it. Two of them, introduced respectively by Major Barnett in 1924, and by Mr. Gates in 1925, dealt only with the metropolis, throughout which they provided for uniform statutory hours; while the third one, introduced by Mr. Banks in March, 1926, applied to the whole country, and proposed that the hours in the metropolis should be from 11 to 11, with a break of two hours in the afternoon, that in cities, county boroughs, towns, and populous places they should be from 10.30 to 10.30 with a similar break, and elsewhere they should be from 10 to 10 with the two-hour break; also that the Sunday evening hours everywhere should be from 7 to 10. On the 15th November the Prime Minister announced, "The Government do not propose to give time for the discussion of this Bill, which raises controversial questions."

Meanwhile on May 11th, 1925, the Under Secretary for Home Affairs announced, "It is the intention of the Government to institute an enquiry into the system of disinterested management of licensed premises, including State management at Carlisle and elsewhere. The terms of reference will be as follows:—'To consider the several systems of disinterested management of public-houses which have been put in practice, whether in connection with private enterprise or otherwise, and to report whether the experience already gained affords grounds for the development of any such system by an Amendment of the Licensing laws.'"

The Southborough Committee was accordingly appointed in June, 1925, and its Report was presented to Parliament in May, 1927, the following extracts being among its more notable conclusions :—

" We have found it impossible to dissociate the question of disinterested management from the more general question of improvement of public-houses." (6).

" The Public House Trust Movement has done good service to the community by the provision of improved public-houses conducted under disinterested management ; in this field it has been a pioneer, and its example has doubtless been responsible to a considerable extent for the development of similar enterprise on the part of the ordinary licensed trade. But the movement has not so far extended its operations on any very large scale." (13).

" State Management (in the Carlisle area) has certain special privileges as compared with the private trader, which may be classified under two heads, (a) Monopoly, and (b) Freedom from control of the licensing justices." (23).

" The experience of State management appears to confirm the view that in the main the working man resorts to the public-house for drink and social intercourse with his friends, and that for this reason in many public-houses no demand for food exists at present." (34).

" The evidence before us was conflicting upon the question whether the schemes (State Management) have reduced drunkenness in the areas in which they have been applied."

" The restrictions imposed during the war, the reduction of the hours during which intoxicating liquor may be sold, and the increased cost of drink, have all contributed to this result."

"It does not appear that any greater reduction in the number of convictions for drunkenness has been achieved in recent years in Carlisle than has been achieved in many other cities and towns." (44).

"It does not appear to us to be established that the reduction of public-houses by approximately 50 per cent and the improvement of those retained has led to a reduction in the quantity of intoxicating liquor consumed beyond that common to the rest of England, Scotland, and Wales in the post-war period." (45).

"The State schemes occupy a specially favoured position." (46).

"The schemes have already produced some houses which have provided useful suggestions in improved public-house construction to the trade, but the ideal form of improved public-house has admittedly not yet been evolved." (48).

"Experimental work of this kind might be further facilitated if licensing justices generally throughout the country would be prepared to take a favourable view of promising new departures in the construction and improvement of public-house premises. (49).

"We are of opinion that the improved and enlarged public-house which caters for a food trade as well as for the sale of drink is a development in the direction of progress, and we think it desirable that applications for improvement and enlargement of premises for this purpose, and also applications for the grant of licenses to managers, should be given very favourable consideration."

"We think that increase in the drinking area should be welcomed rather than deprecated where such increase will facilitate supervision, enable seating accommodation

to be provided, get rid of overcrowding, and improve the tone of a house." (60).

" In connection with any review of the working of the present licensing system of the country, it is desirable that the expediency of providing an appeal against refusal by licensing justices to pass plans for such improvement and enlargement should be given careful consideration." (61).

" If licensing justices would more readily lend themselves to schemes of improvement and enlargement of premises by brewers, it would be possible, in many districts, for such schemes to be coupled with and made conditional on a large reduction in the number of licenses, thus bringing about conditions comparable to those obtained at Carlisle, and securing many of the advantages which have been realised there." (63).

In the summer of 1927 one more attempt was made to bring in Local Option, and to enable prescribed areas to abolish within their limits the sale of intoxicants by private traders.

The Liquor (Popular Control) Bill was introduced in the House of Lords by the Bishop of Liverpool, and proposed to submit to the electors in the scheduled polling areas the choice between " no change," " re-organisation," and " no license."

" Re-organisation " in this Bill meant the transference of the liquor trade in re-organised areas to a Board of Management, appointed by the Home Secretary with the approval of Parliament, and dismissable by Parliament. The proposed functions of this Board included the production and distribution of intoxicants in the areas transferred to them, subject to the provision that they must take into consideration any advice or representation sub-

mitted to them by a Central Advisory Council, on which temperance bodies and private traders were to be represented, and by Local Advisory Committees, which were to consist of licensing justices and others. The local committees were to notify the Board as to the number of public-houses required in their area, the places where they were needed, and the number to be closed as redundant. The Board were to make any structural alterations necessary to permit of the sale of food and non-intoxicants in their public-houses, if, and so far as in their opinion such facilities were required by the neighbourhood, and were also to regulate the sale and supply of intoxicants in hotels and clubs which would not in other respects be under their control.

"No license" practically meant local prohibition.

Polls were to be taken every four years so long as the area voted for "no change"; but if either "re-organisation" or "no license" were carried, there was to be no further poll for eight years.

When polls were taken in "no change" areas the electors were to be allowed to record on their voting papers a second choice, called in the Bill a "transferable vote," so that if the policy indicated by their first vote were not carried, their second vote was to be counted for the alternative policy selected.

When an area had once adopted either "re-organisation" or "no license," it might at a subsequent poll change over to the other of these two alternatives, but in neither case was it allowed to return to private trading.

The Bill thus represented an alliance between the advocates of Prohibition and the advocates of Disinterested Management, for the purpose which they both desired of

getting rid in as many areas as possible of the present competitive, commercial ownership of public-houses, and thus limiting any future struggle in these areas to one between themselves, as to whether the trade should be prohibited entirely or conducted by a State-appointed Board.

Another feature of the Bill was a proposal to change the method of assessing compensation inaugurated by the Act of 1904. A time limit of fifteen years was to be set, after which no compensation would be paid at all. The amount of compensation payable before the expiry of the time limit would diminish with the number of years remaining unexpired.

Lord Onslow, speaking as a member of the Government, described this proposal as " a compromise between those who consider that no compensation should be paid to licensees at all and those who believed that some compensation at least should be given them for the withdrawal of their licenses." He added that he " would regret it if such a proposal ever became the law of the land."

Lord Dawson of Penn gave the result of a series of investigations made among different classes of the community, to show that the drinking habits of the nation were steadily and rapidly improving without any such drastic legislation as the Bill proposed. His figures dealt with the frequenters of middle-class restaurants, with clerks, with soldiers, and with unskilled labourers, and in all these classes the evidence of increased sobriety was remarkable.

But the most scathing indictment of the Bill was that of the Bishop of Durham, who concluded his speech as follows :

" The Bill is open to seven objections, every one of which

in my judgment ought to justify its rejection. It is false in principle. It is obsolete in method. It is unsound in finance. It is unequal in its working. It is unfavourable to any improvement of existing houses. It destroys a method of reducing superfluous houses which is demonstrably working well. It must be, by its recurrent and frequent votes, socially disturbing in its effect."

In March, 1928, Lord Balfour of Burleigh introduced a Bill in the House of Lords, under the title of the " Liquor (Disinterested Ownership and Management) " Bill. This bill also proposed Local Option, but permissive, not compulsory, and did not, like the Bishop of Liverpool's Bill, include local prohibition among the alternatives on which a poll was to be taken. The purpose of Lord Balfour's Bill was to give localities the power to place the liquor traffic in their areas under both central and local supervision and control, in other words to make possible the extension, to any area that wished it, of a slightly modified form of the Carlisle experiment.

Only one question was to be submitted to the electorate, and that on the requisition either of the local authority or of one-twentieth of the registered parliamentary electors in each or any of defined areas. The prescribed form was, " Are you in favour of the adoption (in this area) of a disinterested ownership and management resolution ? "

If the " ayes " had it by a simple majority, then fifteen years were to elapse before another poll could be taken, in order to give the experiment fair trial. If, on the other hand, the resolution was rejected, the area was to remain a no-change area without any further poll being taken for five years. After the first fifteen years in a " dis-

interested ownership and management " area a poll could be taken for continuance or repeal of the scheme and the area might revert to the *status quo ante*, subject to polls at intervals of five years. The whole scheme, in fact, involved impracticable insecurity, and although disinterested ownership had been added to disinterested management in the title, the Bill recognised the necessity of profits in order to meet compensation, pay expenses, and increase extent of business. It took no account of distillers and wine merchants, but indicated as its chief object the destruction of the brewery trade, even at the expense of abandoning local veto which for so many years had been a principal demand made in Liquor Bills. It would also have had the undesirable result of turning municipal councils and the elections thereto into a battleground for temperance propagandists.

CHAPTER XIII

America and Other Countries

AMERICAN LIQUOR LEGISLATION

THE result of war-time legislation, requirements, hurry, and ferment has not been so excessive, in regard to the liquor trade, in this country as in the United States of America. In that country wars have given a special trend to the history of the industry.

The earliest restrictive legislation in America prohibited the sale of alcoholic drink to Indians. During the Colonial period, before the War of Independence, there was no hostility to alcoholic liquor in itself; it was regarded by all classes of the white population as a wholesome, stimulating, and normal beverage. There were laws for the preservation of decency and order, varying in stringency in different States, such as the Maryland law of 1642, in which the penalty for being drunk was a fine of 100lbs. of tobacco, or in default the offender was to be set in the bilboes and compelled to fast for twenty-four hours, and long before the end of the 17th century, Connecticut; Massachusetts, Virginia, Carolina, and other States had inaugurated systems of licensing for taverns, and had begun to collect revenue from the manufacture, importation, and sale of drink, by levying excise duties. Throughout this period only the abuse of liquor was discouraged, not its use; and temperance still meant self-control or

moderation. There was as yet no thought of prohibition, except for the Indians, who were physically incapable of drinking temperately; with them the sensation of becoming drunk was the chief attraction of the white man's liquor, and a murderous frenzy the result; so that prohibiting the sale to them was purely an act of self-protection on the part of the white colonists.

The first serious agitation against the liquor traffic as such began when the War of Independence was at its height, in 1777, and resulted in the circulation among all the troops of the American Army of an appeal to abstain from the use of distilled liquors until the conclusion of the war. This appeal was drawn up by a certain Doctor Rush, who was afterwards one of the signatories of the Declaration of Independence, and its circulation was officially approved.

At this period very little wine or beer was being drunk in North America, and for the greater part of a century afterwards the growing movement in favour of restriction and prohibition was principally concerned with "ardent spirits."

As late as 1833, when the first of a series of "National Temperance Conventions" was held in Philadelphia, and was attended by 440 delegates from 21 States of the Union, the Temperance Societies permitted their members the use of wine and beer, and the Convention's sentiments were expressed in the following resolution:—"That the traffic in ardent spirits as a drink and the use of it as such is morally wrong and ought to be abandoned throughout the world."

The later meetings of this series of Conventions illustrate the development of the anti-liquor attitude from this beginning. In 1836 the Second Convention affirmed the

necessity of total abstinence from all intoxicating liquor, and the same year saw the re-organisation of the "American Temperance Union" on a strict teetotal basis. The Third Convention, held in 1841, resolved that the licensing of the liquor traffic ought to be universally abandoned; and the Fourth, in 1851, pronounced for Prohibition

Meanwhile breweries had greatly increased in number, and in the ten years, 1826 to 1836, the importation of wine had almost doubled.

In the late 'thirties the Temperance Societies were very active, and in 1840 an emotional wave of pledge-signing swept through the country, started by a group of reformed drunkards in Baltimore; but its very success was its undoing. As the emotional fervour of its first impulse waned, lapses became frequent, and were soon counted by tens of thousands; so that the net result of the experience was to strengthen the conviction of the teetotallers that moral suasion was of no use, and to make them concentrate effort on State Prohibition.

Prohibition as a State enactment dates from 1851, when the Maine Prohibition Law was passed and put in force. In the State of Maine the rôle of Sir Wilfred Lawson was played by the Mayor of Portland, Neal Dow, who tried nine times in the course of fourteen years to persuade the Legislature of the State to adopt the policy of Prohibition. The Maine Law prohibited within the limits of the State the manufacture, sale, and keeping for sale, of any intoxicating liquors. The penalty for a third offence included imprisonment. On the complaint of any three inhabitants search might be made on any premises, and liquor illegally held might be seized and confiscated.

During the next four years twelve other States followed the lead of Maine. They were, in 1852, Minnesota, Rhode Island, Massachusetts, and Vermont; in 1853, Michigan; in 1854, Connecticut; and in 1855, Indiana, Delaware, Iowa, Nebraska, New York, and New Hampshire.

The ease with which these early Prohibition laws were passed seems to have been largely due to the fact that all the organisation and propaganda work at that time had been on the teetotal side; the great majority of brewers, distillers, and vendors of strong liquor were as yet operating on a comparatively small scale, and had not formed any widespread organisation, nor put up any combined defence against the prohibitionists.

The extremists gained an abortive victory, for in the next quarter of a century not a single additional State went dry, and of the original thirteen no less than ten either wholly or partially repealed their statutes. Some returned to a system of license, others permitted the sale of beer, wine, and cider, while in New York, Indiana, and Minnesota, the Courts pronounced certain features of the prohibition laws to be unconstitutional, and they were allowed to lapse into desuetude.

In the early 'eighties the Prohibition movement again made an advance, and efforts were concentrated on getting the policy of prohibition accepted by the several States as part of their Constitution. A "Constitutional Amendment" was more difficult to carry than a Statute, but once carried it was much less easily upset. The uncertainties attending a mere statutory enactment had been well illustrated in the State of Massachusetts where Prohibition had been enacted in 1852, repealed in 1868, re-enacted in 1869, amended in 1871 to permit the sale of beer, further

amended in 1872 to authorise local option with regard to beer, re-enacted in its original stringency in 1873, and finally repealed in favour of a Licensing Law in 1875.

Between 1880 and 1886 seven States voted on the question, and in six of them a majority of votes were polled in favour of submitting Prohibition to the State Legislature as a "constitutional amendment." After 1886 however the pendulum swung back again, and out of fourteen States which voted in the next four years, only two were in favour of Prohibition, and those the most thinly populated.

Meanwhile the "trade" had organised its forces, especially by the formation of a "National Protective Association," which spent large sums on Press campaigns, and in combating teetotal propaganda among politicians; and the struggle began to take on a more definitely nation-wide aspect, in place of a purely local one.

Various alternative policies found favour from time to time with the more moderately minded temperance reformers, and by their adoption in different localities helped to side-track and to postpone the arrival of Prohibition as a Federal enactment.

The first of these was the system of High Licenses, which appealed to many States as a useful compromise, restricting the number of the drink-shops, and at the same time bringing in a welcome revenue.

In the last decade of the century the panacea was known as the Dispensary System, which was really a plan of State monopoly, adapted from the Gothenburg system of Sweden, and intended to eliminate the element of private profit. The first State to follow this system was South Carolina, where a law was passed in 1892 forbidding

private citizens to sell liquor, and reserving the entire wholesale and retail trade in liquor to the State.

The results were interesting. At first they appeared excellent; about six hundred saloons were closed, and the gambling dens and other iniquities which were frequently run in close association with the drinking saloons lost much of their attraction. But after a year or two the experiment merely illustrated the futility of relying upon legislation by itself, without a strong public opinion to support it, or a strong administration to enforce it. Dispensaries, i.e. State liquor shops, were opened everywhere, and while they only sold for consumption "off" the premises, it was not long under a lax administration before they were selling regularly to "blind tigers," or shebeens, which were allowed to operate unmolested so long as they obtained supplies from the dispensaries and not from moonlighters.

Yet a third alternative was "Local Option," which appealed to a considerable section of the people. Local option laws were passed in many States, empowering localities to adopt a no-license policy for periods of varying duration. In some cases the localities were counties, in others townships or wards, or even residential districts of a town; and in different States the voting took place annually, or every two years, or only when demanded by a statutory percentage of the electorate.

In the early years of the 20th century the "temperance" agitation in the United States was carried on throughout the Union by two different bodies, whose aims and principles were by no means in accord. These were the Prohibition Party and the Anti-Saloon League.

The former of these took the line that neither of

the old political parties could effectively support the " temperance " platform, because they were equally anxious to secure the votes of both " wets " and " dries " in their constituencies; and they therefore set themselves to form a dominant political party entirely composed of those who were definitely committed to Prohibition.

The Anti-Saloon League advocated Local Option, and was opposed to the formation of a party in the political sense, but rather advised its sympathisers to vote for the " best man " individually in their various elections.

The final success of the Prohibitionists was much helped by the War. In the year 1913 there were only nine States of the Union in which Prohibition was enforced, although nearly sixty years before there had been thirteen. Three only, Maine, Kansas, and North Dakota, had been steadily dry since before 1890. In 1914 five more States went dry, Virginia, Oregon, Washington, Colorado, and Arizona. In 1915 they were followed by another five, and in 1916 by four more. By the close of 1919 no less than thirty-three of the forty-eight States of the Union had, either by statutory legislation or by constitutional amendment, adopted Prohibition.

Concurrently with these victories for the Prohibitionists in the separate States, came the adoption of Prohibition as a Constitutional Amendment by the nation as a whole The " Eighteenth Amendment " to the Constitution of the United States was passed by both the Federal Houses in 1917, and was submitted in December of that year to the separate States for ratifications. By January 16th, 1919, it had been ratified by the necessary three-fourths of the States, and therefore went into effect in January, 1920. It was subsequently ratified by ten more States, leaving

only two, Rhode Island and Connecticut, in which majorities were not obtained in its support.

The actual wording of the " Eighteenth Amendment " is as follows :—

Section (1). After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section (2). The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section (3). This article shall be inoperative unless it shall have been ratified as an Amendment to the Constitution by the legislatures of the several States as provided in the Constitution within seven years from the date of the submission hereof to the States by the Congress.

As we have seen in the preceding paragraph the Amendment was ratified by the necessary number of State legislatures within thirteen months.

Prohibition thus became part of the Constitution of the United States, and meanwhile the legislation necessary to provide for its enforcement was enacted. In October, 1919, in defiance of President Wilson's veto, both houses of the Federal Legislature passed the Volstead Act, officially known as " The National Prohibition Act," and entitled " An Act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries."

The Volstead Act is divided into three Parts or "Titles." Title (3) deals with the prohibition of intoxicating beverages, and contains 39 Sections, many of them lengthy.

The following are a few excerpts from this part of the Act:

From Section (1).

> "The word 'liquor' or the phrase 'intoxicating liquor' shall be construed to include alcohol, brandy, whisky, rum, gin, beer, ale, porter, and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, containing one half of one per centum or more of alcohol by volume which are fit for beverage purposes."

From Section (3).

> "No person shall manufacture, sell, barter, transport, import, export, deliver, furnish, or possess any intoxicating liquor except as authorised in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented."

From Section (6).

> "No one shall manufacture, sell, purchase, or prescribe any liquor without first obtaining a permit from the Commissioner so to do, except that a person may without a permit purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided."

From Section (7).

> "No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor. And no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought . . . or if such examination be found impracticable, then upon the best information

obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for the use of the same person within any period of ten days, and no prescription shall be filled more than once. Any pharmacist filling a prescription shall indorse upon it over his own signature the word 'cancelled,' together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided. Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the Commissioner, which shall show the date of issue, amount prescribed, to whom issued, the purpose of ailment for which it is to be used, and directions for use, stating the amount and frequency of the dose."

From Section (8).

"No physician shall prescribe and no pharmacist shall fill any prescription for liquor except on blanks so provided" (i.e. provided in book form by the Commissioner, with numbered stubs for each prescription, all of which must be returned to the Commissioner whether used or unused) "except in cases of emergency, in which event a record and report shall be made and kept."

From Section (12).

"All persons manufacturing liquor for sale under the provisions of this Title shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorising the manufacture thereof; and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon;

and all persons selling it wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the persons to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale is authorised."

From Section (13).

"It shall be the duty of every carrier to make a record at the place of shipment of the receipt of any liquor transported, and he shall deliver liquor only to persons who present to the carrier a verified copy of a permit to purchase which shall be made part of the carrier's permanent record at the office from which delivery is made. The agent of the common carrier is hereby authorised to administer the oath to the consignee in verification of the copy of the permit presented, who, if not personally known to the agent, shall be identified before the delivery of the liquor to him. The name and address of the person identifying the consignee shall be included in the record."

From Section (17).

"It shall be unlawful to advertise anywhere, or by any means or method, liquor, or the manufacture, sale, keeping for sale or furnishing of the same, or where, how, from whom, or at what price the same may be obtained. No one shall permit any sign or billboard containing such advertisement to remain upon one's premises."

From Section (20).

"Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a right of action against any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed

to such intoxication, and in any such action such person shall have a right to recover actual and exemplary damages."

From Section (21).

"Any room, house, building, boat, vehicle, structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered, in violation of this Title, and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanour, and upon conviction thereof shall be fined not more than $1,000, or be imprisoned for not more than one year, or both.

From Section (23).

"Any person who shall, with intent to effect a sale of liquor, by himself, his employee, servant, or agent, for himself or any person, company, or corporation, keep or carry around on his person, or in a vehicle, or other conveyance whatever, or leave in a place for another to secure, any liquor, or who shall travel to solicit, or take, or accept orders for the sale, shipment, or delivery of liquor in violation of this Title is guilty of a nuisance, and may be restrained by injunction, temporary or permanent, from doing or continuing to do any of said acts or things."

From Section (26).

"When the Commissioner, his assistants, inspectors, or any officer of the law, shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team, or automobile, boat, water or air craft, or other

> conveyance, and shall arrest any person in charge thereof. . . . The court upon conviction of the person so arrested shall order the liquor to be destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priority, which are established . . . as being *bona fide* and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and shall pay the balance of the proceeds into the Treasury of the United States as miscellaneous receipts."

During the first year of the operation of the Volstead Law the effects throughout the country were remarkable, and a very large proportion even of those who were opposed to it on principle acquiesced in its observance. In the *Cosmopolitan Magazine* for December, 1921, it was estimated after a careful survey, that the number of consumers of alcoholic beverages in the United States had been reduced since the passing of the Act from 20 millions to 2½ millions.

But the most cursory glance at the provisions of the Act, as illustrated by the Sections quoted above, reveals the extraordinary difficulty which must attach to its enforcement if any considerable section of the people became determined to evade it, as well as the many opportunities it would afford to unscrupulous officials to profit by connivance; and it is not surprising to find in 1926 a careful writer on the Prohibition side, Mr. D. Leigh Colvin, confessing to the existence of "a widespread feeling that Prohibition has not accomplished as much as its first year

held out the promise or as much as hoped for by those who sacrificed for it through many years."

" Conditions," he says, " should have become better from year to year under national Prohibition instead of becoming not so good as the first year."[1]

Other American writers describe the reaction in terms which are much more vigorous, as for instance, Mr. C. Hanson Towne, in *The Rise and Fall of Prohibition* (MacMillan Co., 1923) who says (p. 36), " Drunkenness is rampant in the land, as it had never been. Prohibition does everything but prohibit. The very thing it sets out to do it fails to do. There is no denying it. People who never drank before, drink now . . . in enormous numbers." And again (p. 210), " We have made a ghastly mistake. The unforeseen evils that have come in the wake of Prohibition far outweigh the good."

It is not within the scope of this book to discuss the arguments for and against Prohibition in the United States or the problems of another country, where it came into being mainly from the urge of wars ; but in the ninth year of its trial probably both " wets " and " drys " would agree that the attempted enforcement of the Volstead Law has cost more in money and morals than the enforcement of any other Federal legislation. It came gradually, after many fluctuations in different States, into the range of Federal legislation by a confluence of an unusual quantity of local or State option, or, more correctly, State Prohibition and Veto laws. The same process is being aimed at in this country, and has been attempted in Scotland. Before dealing with the special trend of Scottish liquor legislation, it may be remarked, as an eminent

[1] *Prohibition in the United States*, D. L. Colvin, 1926, p. 490.

Member of Parliament has pointed out, that at the present time there are only two Prohibitionist countries in the world—America and Finland. "Canada, which was at one time all 'dry,' now has but one Prohibitionist Province —Nova Scotia. Last June Ontario reverted to 'wet' by abandoning Prohibition for State control of liquor."

The Honourable Member might have more correctly stated that Prince Edward Island is also still "dry," but proceeded to speak of Europe, and remarked that in Scotland, Stornoway, after being "dry" for six years, became "wet" in May, 1917. In the same month, Norway followed suit, resuming the sale of spirits, which had been discontinued in 1916.

The Danish Royal Commission, which had for thirteen years been inquiring into various aspects of the liquor problem, presented a final report to the effect that the introduction of Prohibition would be an unwarrantable interference with individual liberty. Turkey, Prohibitionist from 1921 on, has just gone into the distillery business as a manufacturer of an alcoholic concoction called "the People's Raki."

Bhopal, the most important Mohammedan State in India, has abandoned Prohibition after five years' experience. In Madras and Bombay futile attempts have been made to introduce a "dry" regime.

New Zealand has had an interesting experience. Local option in that Dominion dates from 1890, but the basis of the present law is the Licensing Act of 1908, with various Amending Acts that have been passed, especially that of 1918. The 1908 Act divided New Zealand into Licensing Districts, either "ordinary" or "city," in addition to some others classed as "special" and "native." In every

"ordinary" and "city" district there is a Licensing Committee of six persons, one a local magistrate appointed by the Governor-General, and five elected members. No one who is directly interested in the liquor trade is eligible.

Throughout the Dominion a Licensing poll is taken on the day of each General Parliamentary Election. From 1908 to 1918 only one issue was before the electors at these licensing polls, that of Prohibition, but they voted on it both locally and nationally.

The 1918 Act introduced the present three-fold Option, the issues since then being (1) National Continuance of licensing, (2) State Purchase and Control, and (3) National Prohibition without compensation.

In the twelve districts in which local Prohibition was already adopted and in force at the passing of the 1918 Act, a fourth issue is presented, namely Local Restoration, i.e. a return to the system of licenses. Otherwise, so long as National Continuance holds the field, no fresh opportunity is allowed for local experiments in Prohibition.

Three National polls have taken place under the 1918 Act, with the following result:

	1919.	1922.	1925.
For National Continuance –..	241,251	282,669	299,590
For State Purchase and Control	32,261	35,727	56,037
For National Prohibition	270,250	300,791	319,450
Majority against Prohibition –	3,262	17,605	36,177

On neither of these occasions has the requisite minimum of half the total votes cast been secured by any one of the three proposals, and National Continuance has therefore so far been deemed to have been carried. There has

consequently been no Local Option polling except in the twelve Prohibition districts, and in 1925 one of them, the district of Ohinemuri, carried by the requisite three-fifths majority a "local restoration" resolution, and became "wet" once more after many years of drought.

At the successive National polls an increasing number of votes has been cast for each of the three issues, but the increase has been much greater both for continuance of licensing and for State control than it has been for Prohibition.

The Irish Free State is a country where exceptional difficulties are encountered. In some parts of it the facilities for drinking are grossly excessive, e.g. in Ballaghadereen, Roscommon, in 1925, every third house was a public-house; while the national habit of drinking heavy stouts and spirits in preference to lighter beverages makes for an exceptionally high rate of drunkenness.

In view of these circumstances the Report of the Intoxicating Liquor Commission presented in August, 1925, is of considerable interest. The terms of reference enabled the Commission to survey the situation broadly; they were appointed to enquire "Whether the existing number of licenses for the sale of intoxicating liquor is in excess of reasonable requirements and in the event of excess being found to exist, to make recommendations by which an adequate reduction may be effected on an equitable basis, and generally to review the state of the law regulating the sale and consumption of intoxicating liquors and to make such suggestions thereon as may appear to the Commission to be sound and practicable."

At the beginning of the Report the Commission state some general principles by which they were guided in

framing their recommendations. The following extracts from this section are worth noting.

" We desire emphatically to point out that temperance legislation has succeeded in the past only so far as the willingness of the community involved has permitted it to succeed. The essential functions of the law are to preserve order, maintain justice, and protect the community. It is not the function of the law to make people good. Whenever it tries to do so without general public support, it fails. Moral evils can most effectively be combated by moral agencies."

" The right to interfere with the drunkard is the right to interfere with a public nuisance, but this right does not entitle the law to prohibit or unduly restrict the satisfaction of a natural and legitimate appetite by reasonable and moderate men who do not abuse their rights."

" We are satisfied that it is necessary to enforce reasonable restrictions on the trade in intoxicating liquor, and that these restrictions must be based upon consideration for the necessities of public order, public health, and public safety."

In Ireland, as elsewhere, they found that conditions had improved. " All the evidence before us leads to the irresistible and satisfactory conclusion that there is a marked diminution in drunkenness." " The reasons for this happy change are in our opinion due to various causes. Previous to the Great War of 1914-18 there was gradual improvement in the social life, habits, and education of our people which tended to promote sobriety. The taxation upon drink then imposed and the reduction of its strength became the most potent factors in the subsequent decrease in drinking and drunkenness as far as

Ireland is concerned." "Another factor which has undoubtedly contributed to the diminution of drunkenness is the increase of various forms of cheap entertainment such as pictures and dancing halls." In England they noted the importance of the reduction in the hours of sale, and especially of the two hours' break in the afternoon.

The Commission's Recommendations included a codification of the law, and a much simplified classification of retail licenses, reducing their number from 15 to 4. The classification which they recommended was: (a) Hotel, (b) Restaurant, (c) Bar, and (d) Off-sale.

They considered that a hotel should have at least ten apartments used exclusively for sleeping accommodation by travellers, that the valuation of its premises should be not less than £35, and to obtain a renewal of its license it should be required to prove that its receipts from intoxicating liquor in the preceding year were less than half the total receipts from its business.

Restaurant licenses should permit drink to be sold with a substantial meal, but not otherwise unless there was a bar license as well.

Off-sale licenses should carry the right to sell any kind of intoxicating liquor by retail, with the existing limitation as to quantities.

With regard to the reduction in the number of licensed premises the Commission found that while the total number was certainly in excess of reasonable requirements, no single rule or ratio to population would meet the varying local needs. "In our opinion it is impossible to decide the actual reduction which should take place without making a regional survey and an exhaustive inquiry into the social and other conditions prevailing

in each district. It is a case where 'every herring must hang by its own tail.'" "We therefore recommend that the reduction of licenses should be based on the number of licensed premises, the population, and the character of the locality, and as regards the individual license upon the record, takings, and accommodation. This latter, although generally overlooked, is in our opinion a most material matter. We believe that as systematic reduction proceeds, the remaining licenses will increase considerably in value, and the owners will be more careful to avoid the risk of forfeiture by breaches of the law." The Commission recommended the appointment of a Compensation Authority, the Compensation fund to be provided by a levy on the remaining license holders, and that in areas where a more rapid reduction of the number of licenses was desirable than the local compensation fund could promptly meet, the State should advance the necessary sum.

Any drastic interference with the hours of sale was complicated in Ireland by the prevalence of mixed trading, nearly every rural public-house being also a shop. The Commission recommended the enforcement of the two-hour break in the afternoon in the four chief cities, and a slight curtailment of the opening hours in the morning.

A great deal of evidence was heard both for and against the proposal to open public-houses on Sunday for a limited number of hours, to which the members of the Commission were evidently inclined, but their final recommendation was to continue Sunday closing and the serving of the *bona fide* traveller, subject to the doubling of the distance which he had to travel, and the restriction of the hours during which he might be served. In four cities—Dublin,

Cork, Limerick, and Waterford, known as the exempted cities—public-houses were already allowed to open on Sundays between 2 p.m. and 5 p.m., and no interference with them was recommended.

The Commission reported that "The question as to whether the sale of intoxicating liquor should be permitted on Sunday was argued before us as great length, greater in fact than we considered that the importance of the matter justified. We felt that Sunday was after all but one day in seven, and that it was unreasonable that the advocates of restrictions on the sale of liquor and their opponents should devote nearly one half of their evidence to that particular day." "On the whole, we consider that no satisfactory substitute for the *bona fide* system can be found. It is true that the privilege seems to be abused in many districts. We were convinced that the *bona fide* traveller did not in practice conform with the idea of the person contemplated by the statute, but it is not unusual for a statute to produce a different result from that intended and yet to be good." "Complete closing on Sundays in other countries does not seem to have produced any marked results in the way of diminishing intemperance on that day." The Tied House system is not so prevalent in Ireland as in England, and the Commission reported that "No case was made which would justify us in recommending the cancellation of agreements freely entered into with full knowledge of the obligations imposed, particularly as we believe that such a recommendation would do nothing to improve the administration of the law."

With regard to the possibility of a reduction in the number of licensed houses being followed by a serious mul-

tiplication of uncontrolled clubs, the Commission thought that the powers under the existing law were sufficient, both to prevent the creation of unnecessary clubs, and to control those in existence. They recommended that the hours for the sale of liquor in clubs should be the same as those in public-houses, and that there should be a tightening up of the rule about honorary members.

While steadfastly refusing to recommend any legislation that would deprive the law-abiding citizen of his freedom because a small minority abused it, the Commission recommended a strengthening of the law against drunkenness and against permitting drunkenness on licensed premises. "We are satisfied," they say, "that if public opinion were prepared to support sterner penalties, drunkenness could be almost eliminated from our streets in a short time. As a step in this direction, we recommend that where a person is convicted of drunkenness three times in one year, he should on the third and every subsequent conviction within the year be sent to gaol for at least one month, without the option of a fine. His name and photograph should also be circulated officially to the publicans in the county where he resides, and it should be made an offence punishable by endorsement on the license to supply him with drink." "We are satisfied also that the present law concerning inebriates is entirely inadequate and hedged round by so many absurd requirements as to be practically unenforceable. Inebriate homes are at best degrading institutions, and we have not sufficient evidence to justify us in recommending the revival of the State home for inebriates. We think the only effective home for such people is a gaol, and the only suitable occupation plenty of hard labour. The only

places where inebriates who have money can not get drink are the gaol and the asylum."

"Motor car driving when drunk is a class of offence which seems to be on the increase, and it is one the danger of which to the entire community can not be exaggerated. We consider that it should be severely punished, and recommend that the Court should have power, in addition to the present power to cancel the license, to impose imprisonment up to six months without the option of a fine."

CHAPTER XIV

SCOTLAND

SCOTTISH LICENSING LAWS

SCOTLAND, up to the present time, is the chief portion of the British Isles affected by novel liquor legislation arising out of the War, though it has always been noted for special regulations and experiments affecting itself only.

The existing licensing system in Scotland really dates from the Home Drummond Act of 1828, entitled,

"An Act to regulate the granting of Certificates, by Justices of the Peace and Magistrates, authorising persons to keep common Inns, Alehouses, and Victualling Houses, in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licenses; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate."

Under this Act meetings of Justices were to be held half-yearly for the granting of certificates; the certificates contained various conditions, such as the use of standard measures, and specified the house or premises in which the license was to apply; and the Act named penalties both for infringing the conditions of the certificate, and for selling without one; the penalty for a third offence of the first kind being a fine of twenty pounds

or four months' imprisonment, with the forfeiture of the certificate, and for a third offence of the second kind a thirty pound fine or six months.

In 1853 there was passed "An Act for the better Regulation of Public Houses in Scotland," known as the Forbes Mackenzie Act.

This began by referring to the 1828 Act, and stated that, "Great evils have been found to arise from the granting of certificates for Spirits, Wines, and Exciseable Liquors, to be drunk or consumed on the premises, to Dealers in Provisions and other such Commodities."

One of its chief provisions was to draw a hard and fast line between the Grocers and the Publicans; Grocers were only to have certificates to sell for consumption off the premises, and Publicans were forbidden to sell groceries. A second and equally important new enactment was the fixing of 11 p.m. as the universal hour of closing. Publicans were not to "keep open house, or permit or suffer any drinking on any part of the premises belonging thereto, or sell or give out therefrom any liquors, before Eight of the Clock in the Morning or after Eleven of the Clock at Night of any Day"; and they were not "to open the house for the sale of any liquors, or sell or give out the same, on Sunday." The Forbes Mackenzie Act also introduced a separate form of Certificate for Inns and Hotels, which were defined as "Houses containing at least four Sleeping apartments set apart for the accommodation of travellers."

The fixing of a closing hour was undoubtedly beneficial, but on the other hand there was evidently much shebeening and evasion of the law, for in 1862 it was found necessary to pass a "Public House Amendment Act," in order "to make provision for more effectually preventing the sale

of exciseable liquors without certificates or license, and for other purposes relating thereto."

This Act provided that in the absence of contrary evidence any place was a shebeen, which was " by repute kept as a shebeen or in which at the time charged there were utensils and fittings usually found in licensed houses " ; it also considerably enlarged the powers of the police, laying on them the duty of inspecting eating-houses, of reporting public-houses from which drunken persons were frequently seen issuing, of arresting persons found drunk and incapable, and persons found either drunk or drinking in a shebeen ; it prohibited the hawking of liquor ; and it empowered the owner of any property or his agent on his behalf to object to the grant or the renewal of a certificate in his neighbourhood, and required the justices to hear his objection, though if they adjudged it to be frivolous or vexatious they might recover from him the expenses of the hearing.

In 1876 the " Publicans' Certificates Act " began to apply to Scotland the policy of restriction as to the number of licenses which in England had been inaugurated in 1869. Its two main provisions were that the grant of a new certificate should not be valid unless and until it were confirmed by a Standing Committee of the Justices of the Peace for the County, and that the refusal of a new certificate by the ordinary licensing justices was to be final, and not subject to any appeal either to the Standing Committee or to Quarter Sessions.

In 1887 the general hour of closing was put forward to ten o'clock instead of eleven, except in towns of 50,000 population and upwards, and except in cases of special and occasional permission.

The Royal Commission of 1896–9 considered conditions and heard evidence in Scotland as well as in other parts of the kingdom, and both the Majority and the Minority embodied their recommendations with regard to Scotland in Part 2 of their respective Reports.

The chief recommendations of the Majority were:

1. Some re-distribution of licensed houses is necessary, and in certain places a reduction is desirable.
2. Provisional certificates in cases of contemplated removal; the law should be assimilated to that of England.
3. No burgh of less than 7,000 population should have separate licensing jurisdiction; and all police burghs of 12,000 and upwards should obtain it.
4. Conditions imposed on license-holders by the Licensing Authority should be regulated by statute or by byelaws approved by the Secretary of State for Scotland, and should be endorsed on the certificate.
5. Clerks to the Licensing Authority should be subject to the same disqualifications as members of that body.

6a. The licensing Authority should have full control over alterations and extensions of premises.

b. The duty of certifying to the good character of an applicant and to the suitability of premises should be transferred to the Chief Constable.

7a. New certificates should only be applied for at the Whitsuntide Licensing Meeting.

b. Certificates should run from the 28th May instead of from May 15th, so as to correspond with the ordinary Removal term.

8. Provision should be made for inadvertent omissions to apply for renewal, and also for cases of death during the interval between date for lodging application and the Licensing Meeting.
9. Reasons for refusing to renew should be stated in open court, and if required should be given in writing.
10. The Licensing Authority should have power to prevent

repeated applications for a new certificate for the same premises.

11. Recommendations as to Transfers in English Report should apply to Scotland.

12. Recommendations as to special conditions made for England should apply to Scotland.

13. Wholesale licenses (except those required by brewers, distillers, wine and spirit merchants, and blenders), should be brought under the complete control of the Licensing Authority.

14. The sale of liquor in theatres should be brought under the same control.

15a. The sale of liquor on packet boats should require a certificate from the Licensing Authority.

b. The sale of liquor on board such vessels in harbour should be prohibited.

16. The Licensing Authority should have discretionary power to close on New Year's Day during certain hours.

17. Hotel keepers holding 6-day licenses should have the privilege of sale to lodgers on Sunday.

18. The qualifying distance for *bona fide* travellers should be six miles.

19. The Licensing Authority should be constituted as follows :—

a. In counties or districts of counties including burghs under 7,000 population ;

Licensing Authority should consist of a Committee selected triennially, two thirds by Justices of the Peace for the county, and one third by the County Council, from their respective bodies ;

With appeal to

A Committee selected by the Justices of the County out of their own body (care being taken that the districts and burghs within the county should be adequately represented).

b. In counties of cities.

The Licensing Authority should consist of the Magistrates as now,

With appeal to

A fixed number, selected by the Justices for the county of the city from their own number, with the Lord Provost as Chairman.

c. In other Royal and Parliamentary burghs over 7,000 population, and in police burghs over 12,000, the Licensing Authorities should consist of the Magistrate

With appeal to

The Committee described in (a).

The appeal committee should also exercise the functions of the Confirming Committee.

No members of the Licensing Authority should be eligible for the Appeal Court, except Lord Provosts of cities with a separate commission of the peace.

20. An appeal to the court of session on a stated case on points of law should be allowed.

21. In burghs special permissions should be granted only in open court, with 48 hours' notice to the police.

22. No child under 16 should be served with intoxicating liquor for consumption either on or off the premises, and the sender of the child chould be liable to the same penalties as the person by whom it is served.

23. Some measure such as compulsory bonding should be adopted to check the evils of the consumption of new whisky.

24. Non-residence of the certificate holder or complete separation of the premises from the dwelling-house should, when practicable, be made a condition of the public-house certificate.

25a. The recommendations of the Royal Commission on Grocers' licenses should be carried out so far as they are applicable.

b. The Licensing Authority should have power to insert in new grocers' certificates a condition that the premises should be exclusively used for the sale of intoxicants.

c. Premises of all licensed grocers and dealers should be entirely closed at 8 p.m. except on Saturdays and days

before holidays, when at the discretion of the Licensing Authority the hour may be extended to 9 p.m. ; and they should be completely open to police supervision.

d. Every van-man conveying exciseable liquor under certificate from the Licensing Authority should have a pass-book, or invoices, in which the addresses of the people to whom the liquor is being conveyed, with the quantities, should be duly entered. The Excise officials and the police should have power to inspect this book, to search the vans, and to enter any licensed premises to examine the order books, and to compare them with the van-man's delivery books or invoices and with the goods being delivered.

26. Special officers of the police should be placed at the disposal of the Licensing Authority, if they so desire, for the purpose of inspecting or reporting on the conduct of licensed premises.

27a. There should be a penalty for permitting drunkenness on licensed premises.

b. The 14th section of the English Act of 1872 with regard to harbouring prostitutes should apply to Scotland.

c. Provisions should be adopted against supplying constables on duty with liquor.

d. The 17th section of the English Act of 1872 with regard to gaming should apply.

28. The provisions of the Burgh Police Act 1892 making it an offence to be drunk when in charge of loaded firearms, carriages, horses, etc., should be applied generally ; and licensed premises should be included in the definition of a public place.

29. The law should be consolidated, and various minor alterations should be included in any new Scottish Act.

In 1903 many of these Recommendations, especially those on which the two Reports agreed, were embodied in a consolidating and amending Act, known as " The Licensing (Scotland) Act 1903."

Some of the more important features of this Act, apart from the much-needed consolidation of former statutes, were

1. To constitute new licensing courts for both burghs and counties, in the case of counties half to be justices elected by the justices, and half to be members of the county council elected by the county council.
2. To authorise the summoning of witnesses by any member of a licensing court, such witnesses to be examined on oath during the hearing of any application.
3. To require the deposit of a plan of any premises concerning which an application was made, thus giving the licensing court control over the structure of licensed premises.
4. To forbid the sale of spirits to children apparently under the age of Sixteen for consumption on the premises.
5. To forbid the sale of any exciseable liquors to children under Fourteen, except in corked and sealed vessels; the sender of the child being liable to penalties as well as the vendor of the liquor.
6. To forbid the Sunday sale of liquor to "travellers," except for their own use in the hotel or inn where it was purchased.
7. To impose penalties on various persons other than license-holders; e.g.
   a. Disorderly persons refusing to quit licensed premises.
   b. Persons who induce grocers to sell them exciseable liquors, and then drink them on the premises.
   c. Persons found drunk when in charge of vehicles or when in possession of firearms.
   d. Persons procuring or attempting to procure drink for drunken persons;
   and others.
8. To authorise the Registration of Clubs, with full record of their objects, rules, and officials, and to impose penalties for the sale of exciseable liquors in any clubs not so registered, and also to prohibit the sale in registered clubs except to members of the club for consumption on the premises by themselves or their guests.

In 1913 Local Option was introduced in Scotland by "An Act to promote Temperance by conferring on the Electors in prescribed areas Control over the grant and renewal of Certificates; by securing a later hour of opening for licensed premises; by amending the law relating to Clubs; and by other provisions incidental thereto."

This is known as the "Temperance (Scotland) Act, 1913," and the Local Option powers conferred by it came into effective operation on the 1st of June, 1920.

On a requisition being duly signed in any prescribed area, a poll of the electors is held at which voting takes place on three submitted resolutions, viz.:

"No Change"
leaving the powers and discretion of the licensing court unaltered;

"Limiting"
reducing the number of certificates in the area to 75 per cent. of those in force at the passing of the resolution;

"No License"
abolishing all certificates for the sale of liquor within the area, except for inns and hotels or *bona fide* restaurants, which must be without drinking bars and otherwise in strict accordance with the Act.

A further poll may be taken every third year on a fresh requisition duly signed; and the resolution adopted at a previous poll may be repealed, and one of the others substituted for it.

In order that either a Limited or a No License Resolution may be carried, at least 35 per cent. of the electors on the register must vote in favour of it, and for a No License Resolution 55 per cent. of the actual votes recorded must also be in favour.

The first polls took place in 1920, and the following is the official Return of the results.

	Burghs.	*Counties.*	*Total.*
Areas in which Polls were taken	318	266	584
Resolutions carried			
No change	265	244	509
Limitation	27	8	35
No License	26	14	40
	318	266	584
Number of Electors entitled to vote	1,350,623	346,628	1,697,251
Percentage of Electors voting	71.7%	61.4%	69.6%
Number of votes recorded and precentages of the votes recorded.			
No Change	577,269 (59.6%)	131,458 (61.7%)	708,727 (60%)
Limitation	17,980 (1.9%)	1,420 (.7%)	19,400 (1.6%)
No License	373,171 (38.5%)	80,107 (37.6%)	453,278 (38.4%)

Thus out of 584 areas in which polls were taken, the abolition of public-house licenses was carried in only forty, and the reduction of the number of public-houses in only thirty-five. The reduction (Limitation) proposal made no real appeal to the voters in itself, being in nearly every case carried by an arrangement which permitted the transfer to that Resolution of No License votes whenever there were not sufficient of these to carry the No License Resolution. The struggle was entirely between the retention of the present system of licensing and the introduction of partial prohibition, i.e. prohibition of public-house and grocers' licenses as distinct from those for hotels and inns.

The second series of polls in these areas was held in December, 1923. The number of votes recorded was 804,959, as against 1,181,405 in 1920. No new area carried the No License Resolution, and five areas which had carried it in 1920 now voted for Repeal. Limitation also was repealed in seven areas, but was carried for the first time in two fresh ones, and in three areas where Limitation was already in force, Resolutions were carried for Further Limitation. All these Limitation Resolutions were due to No License votes, the total voting in the country for Limitation itself being only 1.6 per cent. of the votes cast.

The third series of these polls took place in 1926, with similar result. The No License policy was carried in no new area, and was repealed in two. Limitation and Further Limitation were carried in seven areas, while Limitation was repealed in one, namely the Park Ward of Glasgow.

Meanwhile in other areas, mostly rural, which did not vote in 1920, polls have been taken in the intermediate years. In 1925, for instance, 71 parish areas were polled, eight of which had already passed a " No License " resolution. Two of the eight returned to licensing, while one fresh area went dry.

The areas in which No License Resolutions are now operative are for the most part " small communities which, prior to 1920, had few licenses," or else " sparsely-licensed wards of towns and cities which have ample facilities for the purchase of liquor in adjacent wards."[1]

The net result of the Act during the first few years of its operation has been to show that the No License pro-

[1] Temperance Legislation League Leaflet, B. 27.

posals have not made the appeal to the people of Scotland that was confidently expected of them in some quarters, and that interest in them has visibly abated.

Seven years have now elapsed since the Act came into force. There are 1,216 polling areas in Scotland. The number which started with "No License" was 40, or about 3 per cent. There have been pollings every year since, but the number of areas still maintaining "No License" is now reduced to 29, or less than 2½ per cent. of the whole.

It is alleged that far from Local Veto having done good, it has certainly in many localities done harm. The polls have been responsible for infinite turmoil and ill-feeling, and a lavish expenditure which has been wholly wasteful. In the few "No License" areas shebeening is common and the drinking of methylated spirit and Sunday drinking are on the increase. In the polls of 1927 the victories were anti-Prohibitionist and the actual number of polls was only 16, generally worked up by a few active teetotallers.

CHAPTER XV

CLUBS

IN England the result of War time experiments has not, as in the United States and Scotland, affected practically the whole country and the whole trade, but at the present time is specially a subject of controversy owing to the continuing restrictions upon the freedom of clubs, that most popular communion of the individualistic, but gregarious British man, and, in a lesser degree, woman; hailing back perhaps to the shadowy days of the Roman Empire. In that Empire clubs or sodalities were formed in considerable numbers, and in all cases were duly licensed by the State, provided that their purposes were not considered politically dangerous. They included religious clubs, athletic clubs, and burial clubs, the members of each being linked together by a common interest, and maintaining their association by periodically feasting in each other's company.

Passing through the growth of the guilds, the city companies, and especially the taverns, there arose in the 18th century the popular feature of coffee clubs in London, and later the habit grew and associates organised, and drew up rules of membership, and frequently the house where they had first been wont to meet casually became the club-house which they jointly owned. As time passed, the social, political, literary, and sporting clubs developed,

especially in the West End of London, during the later 18th and the whole 19th centuries.

Working-men's clubs followed, but were not much in evidence till after 1850. In 1862 was founded the Working Men's Club and Institute Union, whose story is told, with much enthusiasm, by Mr. B. T. Hall, in *Our Sixty Years*, published 1922.

For the first few years of the Union's existence membership was restricted to clubs in which no intoxicants were consumed, but this policy was quickly found to be unworkable. Clubs were formed only to collapse. It was clear that they could not hope to compete with the public-house on any widespread scale unless beer could be obtained in them. The strongest advocate of a teetotal policy for clubs in 1862, Mr. Henry Solly, had by 1868 become convinced that he had been mistaken. He stated in that year that " He did not wish to see working-men treated like children. There was a very large number of respectable working men who desired a pint of beer after their day's work ; they wished for no more, but they would take no less. If they could not get it in the club, they would go for it elsewhere."

Mr. George Howell, afterwards M.P. for Bethnal Green, and the writer of what was for long the standard history of the Trade Union movement, said at the annual meeting of that year, " Working men ought not to be more restricted than those of the upper and middle classes. People who advocated the allowance of beer in the clubs had, like teetotallers, no other motive at heart than the good of the community."

On the same occasion Lord Lichfield expressed his belief that " if beer were allowed in clubs men would be

drawn away from the public-house and led to associate with those who could set them a good example in the matter of moderate drinking."

Mr. Hall himself in 1922 sums up the experience of half a century since the Union first permitted beer drinking in its affiliated clubs. He says " Workmen do drink alcoholic refreshment. If they drink, is it better they should drink in a pub, where they must, or in their own club, where they may, but where nobody minds whether they do or not ? " And he goes on to make the somewhat startling claim " Workmen's clubs have done more for Temperance than any other agency existent among adults. The clubs are the places where influences must be found to affect the working man's character, to wean him by discipline and honour from violence and excess. In those districts where working men s clubs are the most numerous and oldest established there drunkenness is found at its minimum "[1]

In a later chapter, " The Workman in the Club," Mr. Hall says, " Few workmen are besotted or obscene. Such as there are are not found to any appreciable extent in any Workman's Club." When a man of this type does gain admission, " He is called early before the Committee and asked to resign, or is ignominiously expelled. Or—what is just as common—he steadily and speedily reforms. Under the influence of continuous example and regulation he gradually becomes cleaner, self-respecting and orderly."

And again, " Order is a club's first law ; a willing obedience to self imposed discipline a necessity of existence. Thus in the small, self-governed, self-supporting,

[1] *Our Sixty Years,* Chapter on "The Beer Problem,"

communal state, the club, the member develops the habit of thought essential to the exercise of citizenship."

In illustration of the last paragraph he points to the fact that at the close of 1921 no less than 7,700 members of the affiliated clubs were holding responsible public offices, 170 being Members of Parliament, 871 Justices of the Peace, and 1,452 Town or Borough Councillors.

Several of Mr. Hall's statements are corroborated by Mr. Ernest Selley in *The English Public House as it is* (1927). He devotes a whole chapter to Registered Clubs, i.e , Clubs in which intoxicants are supplied, which are therefore registered under the 1902 Act, and describes the result of a first-hand investigation of a considerable number of them.

He says, " In most registered clubs the major portion of the revenue is derived from the supply of intoxicating liquors. It would be quite wrong, however, to assume (as is so often done) that clubs exist mainly for the supply of drink The great bulk of them are formed for definite social reasons, and are attached to many forms of group activity among working men, touching politics, sport, trade unions, crafts, etc., and they are registered because the members, as in the case of the Athenaeum, the National Liberal, and the Carlton Clubs, desire that intoxicants shall be available on the premises for those members who require them." " I have visited clubs in mining districts where, besides all kinds of indoor recreation and hobbies —billiards, indoor quoits, concerts, dances, first-aid classes, tutorial classes, etc.—there were tennis courts, bowling greens, racquet courts, and band-stands. In two mining villages the well-laid-out club grounds were the only public parks the communities possessed. In another

miners' club there were bathrooms for the use of members, such luxuries not being available either at the pit-head or in their squalid homes." "In most cases the best guardians of the good name of the club are the rank and file users who quickly resent any behaviour likely to discredit the club. Some of the members of a club in a mining village told me that if they had the choice of appearing before their own club committee or the local bench of magistrates, they would prefer the latter because the treatment would be more lenient." "Large numbers of abstainers are club members, and some serve on committees, and in many clubs I have noticed that the regular bar loungers form only a small minority of the members."

From all this it is clear that working men's clubs are not to be condemned wholesale as merely "unlicensed pubs"; but on the other hand, it is also evident that there are more frequent abuses of the club system than a perusal of Mr. Hall's book would lead one to suspect. Mr. Selley, for instance, mentions a number of cases in which registered clubs were opened in what had been licensed premises within a few weeks of the cancellation of the license. He quotes the Chairman of the Birmingham Justices with regard to one house in particular, for the closing of which the Committee paid £4,590 in compensation, only to find three weeks later a club opened on the premises and intoxicants being supplied therein. In several instances which came under his notice, clubs had received substantial financial assistance from brewery companies; two newly formed clubs obtained loans from breweries, in one case of £5,000 at five per cent, in the other of the entire cost of erecting and fitting up the club-house.

A large amount of evidence was heard on the subject

of Clubs by two Royal Commissions, whose findings have been quoted earlier in this volume, the Commission of 1889 on the Welsh Sunday Closing Act, and the Commission of 1896–9 on the whole Licensing question

In South Wales especially the closing of the licensed houses on Sunday under the 1881 Act had resulted in a great deal of evasion, partly by the opening of shebeens, which were unlawful, and partly by the formation of clubs, which were within the law. The Commission stated in its Report, " All kinds of Clubs were mentioned to us in the course of our enquiry, and the expressions ' spurious clubs,' ' bogus clubs ' and ' co-operative public-houses,' were used to denote that form of association which may be said to have come into existence simply to evade the Sunday Closing Act." Of such " clubs only in name," the Commission say, " It is established beyond all doubt that they do more harm even than public-houses of the lowest class." And they add, " We think that with due care and vigilance on the part of the local authority and the police it would be easy for the magistrates to determine on evidence, as a question of fact, whether any particular institution is or is not a mere drinking association."

Of the two Reports presented by the Peel Commission in 1899, that of the Minority devoted the largest amount of space to clubs.

They begin by pointing out the legal distinction between a " members' club " and a " proprietary club." " The Act of 1872 imposes stringent penalties on the sale of intoxicating liquors without a license ; but it has been held that the distribution of liquor in a members' club is not a sale. The leading case is Graff v. Evans, 1882. Only members' clubs are so privileged. A proprietary club

stands on a different footing; the supply of liquor is a sale, and a license is required."

On the increasing number of clubs they say " The figures show that the club movement has not as yet attained any very great dimensions. 4,000 clubs selling intoxicants is not a very large total. No doubt a certain class of club is a very great evil, and should be put down with a strong hand, but these are comparatively few, and have attracted attention out of proportion to their numbers."

The two types of club which the Commission found to be particularly objectionable were the night clubs of the Soho district, and the clubs which were started by dispossessed publicans or brewers in premises which had lost their license. Evidence with regard to the first kind was given by Mr. Hannay, the Police Magistrate at Marlborough Street, and by Mr. A. J. Llewellyn, Inspector of Inland Revenue. Often these were " mere houses of ill fame, of the worst description, kept by foreigners." Evidence about drinking clubs being started in premises which had lost or had been refused a license was given to the Commission from many parts of the country, some of them being Shrewsbury, Northamptonshire, Essex, Yorkshire, North and South Wales, and Newcastle. Mr. Lewis, M.P., gave evidence that some of the bogus clubs which had been suppressed in Cardiff had been run in the interests of brewers.

In spite of these exceptional tpyes the great majority of clubs were shown to be law-abiding and useful institutions. Among witnesses whom the Commission heard were Mr. B. T. Hall, the secretary of the Working Men's Club and Institute Union, Mr. J. May, secretary of the Yorkshire Federation of Liberal Clubs, and Mr. H. Bryans,

secretary of the Association of Conservative Clubs. From their testimony it was clear that members of *bona fide* clubs would welcome legislation by means of which they could be placed on a register from which bogus clubs would be excluded. Their statements to this effect were quoted in Parliament in 1902, during the debate on the Bill of that year which for the first time made compulsory the registration of clubs in which intoxicants were sold.

The Minority Report of the Commission says, " We fully agree with all that has been said by Mr. Hall and others as to the benefits to be derived from properly constituted and well-conducted clubs. Under proper regulation great things may be hoped for from the club movement." But it adds, " There is unquestionably need for legislation to assist the movement and to check abuses."

The legislation followed three years later. The Licensing Bill, which became law in August, 1902, for the first time, ordered the registration of all clubs in which intoxicants were supplied. (Its provisions have been already stated).

In the debate on its Second Reading Sir John Rolleston said, " I have seen in my own experience that the more drinking is suppressed in places that are licensed, the more it is likely to break out in places that are unlicensed, where it can be indulged in without restraint, without police supervision, at all hours of the day, and on all days of the week." " Many clubs are most useful institutions, which provide for working-men what they can not always get at home, the opportunities for quiet recreation, places where the literature of the day is open to them, where they can exchange ideas on current subjects, without spending anything if they are so minded." " On the other hand, there are clubs which are established solely for the purpose of

enabling members to obtain drink at such hours as the public-houses are not open."

The provisions of the 1902 Act were afterwards embodied in the Licensing (Consolidation) Act of 1910, and have been summarised as follows by Mr. Isaac Foot (Clubs and Drink), quoted by Mr. Selley :

(1). Registration of liquor-supplying clubs is compulsory, the registering authority being the clerk to the Justices of every Petty Sessional Division. The Act gives the form of registration, requiring numerous particulars as to the club about to be set up.

(2). Off-sales of liquor can be made only to a member and on the club premises.

(3). A Court of Summary Jurisdiction may, on proved complaint of any persons, strike the club off the register on the following grounds :

(a) Club has ceased to exist or membership has fallen under twenty-five.

(b) Not conducted in good faith, or kept for an unlawful purpose.

(c) Frequent drunkenness on club premises.

(d) Illegal sale of intoxicants on club premises.

(e) Persons not members habitually admitted, merely to get liquor.

(f) Club occupies premises in respect of which, within twelve months preceding formation of club, a license has been forfeited or a renewal refused, or an Order made that premises shall not be used as a club.

(g) Persons habitually admitted as members without at least forty-eight hours interval between nomination and admission.

(h) The supply of liquor is not under the control of members or their Committee.

(4). Power is given to a Justice to grant a search warrant on information upon oath.

The only change made in the position of clubs since 1910 took place during the War, under the provisions of the Defence of the Realm Act. The Act of 1910 explicitly lays it down that clubs are not licensed premises; but the Central Control Board, acting on the powers conferred on them during the War, enforced on clubs and licensed premises alike the same drastic curtailment of the permitted hours of supply or sale. This interference with the freedom of clubs to regulate their own hours in the matter of intoxicants is resented in some quarters, while in others it is upheld as essential to prevent the general undoing and defeat of the whole licensing system.

A further suggestion has been made by Mr. Sherwell that new clubs should no longer be formed by any group of twenty-five persons without let or hindrance, and registered automatically on the supply of the required particulars and the payment of the fee, but that every application for the registering of a new club should be referred to the Licensing Authority or some other competent body, who should have full discretion to deal with the application on grounds of public policy and merit.

It may be noted that on January 1st, 1926, there were 12,128 registered clubs, and it is estimated that during 1926 the number of registered clubs increased further by 342. Since 1904 clubs have increased by 5,767 as compared with a decrease in on-licenses of 19,618.[1]

[1] *Licensing Statistics for England and Wales.*

CHAPTER XVI

A Brief Review

The foregoing chapters indicate, in a meagre way, the vast complexity of a subject, which, in major or minor degree, influences or interests the majority of the adult population of this country. They point out its ancient history, its varying course through the centuries, and the advent of new factors. As far back as the records of history go, beer, in its many forms, was in strong and sustained demand. Beer has moulded the history of England and Englishmen have carried their national custom to all the countries of the world. Then came the fashions of spirits and more wine in the sixteenth century, tea and coffee in the seventeenth, stronger wine and newly devised spirits in the eighteenth, and the vast developments of the industrial age in the nineteenth. The problem still remains the same, in lesser degree, as that which had to be met when the Select Committee of 1853 was appointed, with a view of reporting whether any alteration of the law can be made for the better preservation of public morals, the protection of the revenue, and the proper accommodation of the public. The problem descends from generation to generation. Thus Sir Robert Peel was a member of the Select Committee of 1834, his son, Viscount Peel, was Chairman of the Royal Commission of 1896–9, and his grandson, the Hon. Sidney Peel, has spoken and written on

the subject. Generations of Barclays, Whitbreads, Burtons, Youngers, Watneys, and other families have spent their lives, for scores of years, in working at it. Many others, on the temperance platform, have grown up to inherit or absorb the theories of old entanglements. The revenue continues to make heavy demands, the public insist upon supplies, the producers in a new age rapidly developing follow the natural incentive of endeavouring to make their business a success. They find, too, the necessity of success, if the capital for the great demands, both at home and abroad, is to be obtained.

In any endeavours they have made, chiefly owing to the public demands for good liquor at a reasonable price, and for the reform of abuses and the restraint of that excess, which is in fact, the traders' chief enemy, they have not been immune from bitter attacks which too often have turned details into principles. Continuity of attack, both against producers and the vast army of distributors, has led to continuity of either passive or political defence. All political parties have been involved in controversies in Parliament and in every constituency, which every political party would fain eschew. The producers themselves have been and are competitors in business, and the lack of unity has ever been a weakness in their ranks.

On the other hand, Prohibitionists and moderate reformers, aided by belated supporters from various Church denominations, some of whose predecessors had been the scandal and the mark of satire for centuries, may claim, and possibly with some reason, that little would have been done without the goad which they applied. As far as religion is concerned, the recent creed of constant attention to the moral and physical improvement of neglected

persons, unknown to the theologists of the seventeenth century, may have spurred its efforts. " We may search," it has been said, " the famous ' Rules and Exercises of Holy Living,' from cover to cover, and not learn that Jeremy Taylor would have thought that any activity of the district visitor, etc., came within the category of saintliness."

During the centuries the producers, merchants, and retailers of beer, spirits and other drinks have varied in their methods and outlook. The demands and tastes of the consumers have changed. The attitude of Church and State has never been consistent. Opinion has been chequered in the public at large, and even in the attitude of those who are keenly bent upon reform.

Yet it is clear that the main causes of excess in drink lie in lack of education, bad housing, poor food, and various forms of want of amenities in life, and in the habits of the people or in public opinion. Many of those who may be classed as excessive drinkers are subjects for mental or medical care rather than the deprivation of freedom of choice for the mass of the nation. There has been too much argument from the particular to the general, and too much talk of restriction and coercion. The whole history of the country indicates that reasonable regulation is the best course that the law can follow. Laws in advance of public opinion, laws involving too much restriction and too much coercion, and the attempt to make people moral by Act of Parliament, fail, breed resentment and nurture evasion. Successful evasion engenders a contempt of law or regulation and leads to dangerous consequences far beyond the little advantage which may seem transiently to ensue. Even in cases of gross excess, the people as a

whole will not regard drunkenness as a crime, though they may object to disorder. Regulations against disorder and for the punishment of disorder, when wisely made, have been successful. Regulation of hours, when reasonable, and improvements of amenities, when allowed and not made unduly expensive without security for the expenditure, have also been successful, except in the view of those who in relentless pursuit of the "Evil thing" would allow no improvement in a business of which they choose to disapprove.

Abolition of freedom and obstacles to reform have been unsuccessful. Prohibition has receded from the range of practical politics, though under the specious pretext of Local Option, its principles and extended application is still advocated for political or so called religious motives. Foiled in the attempt to gain the whole loaf, reformers think they may gain their object by nibbling it away piece by piece.

"What then should you aim at?" said Lord Balfour, when Prime Minister in 1904. "Surely at this ideal, that the public house should be kept respectably, should be kept by respectable persons, and should be kept in such a manner as will make those who frequent it obey the law and conform to the dictates of morality." Recently curtailment of bad houses has proceeded apace, and has now almost become a question of particular districts. Inspection on behalf of the owners themselves, bespeaking of character, diminution of treating, and requirements of cleanliness have tended to improve beyond belief the type of public house keepers.

Science has caused the old complaints of adulteration to vanish away, and has enabled better liquor to be made by better and more assured methods.

The high prices, due to taxation, and lowered strength, have been factors, so it is alleged, in the reduction of individual consumption.

In many paragraphs the Southborough Committee urge that licensing justices should more readily lend themselves to schemes of improvement and enlargement of premises by brewers. In some districts, they have done so with remarkable success. A tendency in the direction of giving the brewers a chance has manifested itself in other districts too, in spite of obstinate objection by certain justices belonging to temperance associations who can sit and be heard in the supposed interests of temperance, when any persons connected with the trade are rigidly excluded from the bench. In spite, too, of many difficulties the brewers themselves have improved and arranged many houses throughout the country to an extent not often realised or known. Given an area unclogged by restrictions and charges, such as has been permitted at Carlisle, or even less free, they themselves might work wonders in the reduction of excess and drunkenness, even if the total amount of liquor consumption was not greatly lessened.

The country is gradually becoming more and more sober. As Mr. Churchill phrased it in his budget speech of April 24th, 1928, in the consumption of spirits there is "continuous descent." A wave of unexpectedly high earnings might possibly bring, as it has done before, a wave of increased or excessive consumption, but the tendency of the time, with its desire for outdoor life, its speed of transport, and its general orderliness, is against excess and is likely to cause such a change to be but fleeting. In the words of Dr. F. B. Meyer on his 81st

birthday, "One must judge the state of society by its general tone, not by its exaggerations."

Surely the present struggle is a bad remnant of a changed past. Just as in industry, the workman adopted "ca' canny," now reprobated by all employers and the wisest labour leaders, as a protection against driving tactics and cutting of prices, so the producers and the liquor trade generally took refuge in tenacious defence against exaggerated attacks and perpetual pin-pricks. At the present time in industry, employers and employed seem at last to be realizing that more and better results are likely to be obtained by conciliation and agreement, and the weight of concerted knowledge, than by bitter and disastrous polemics and sterile mouldings of indissoluble economic laws by force or by Acts of Parliament. The events of recent years have shown that the liquor trade has put forward mind and hand towards improvement, orderliness, and public demands. Improved houses, better management, closer inspection, discountenance of excess, and the treatment of those who are unfortunately classed under the generic name of "inebriates," regardless of the causes, mental, physical, or economic, which have led to such result, are all of them difficult questions with which they have to deal. The trade cannot be destroyed, though if Prohibition ever came within the purview of practical men and women, which I do not believe it will, it might be driven underground. If those who attack them so bitterly were reasonable in the desire of real improvement and would meet them half way with a will to settle, one may safely predict that agreed changes might be made, and would revolutionize the statistics which are now so greedily and uncritically followed.

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